North Central Regional Transit District (NCRTD)

Resolution No. 2016-39

ADOPTING AMENDED PERSONNEL RULES

WHEREAS, the Board of Directors adopted its existing North Central Regional Transit District Personnel Rules and Regulations on July 12, 2013 by Resolution No. 2013-15; and

WHEREAS, the Board wishes to periodically review and update its Personnel Rules in order to ensure that the District is operated pursuant to a modern personnel system that is efficient, fair, impartial and complies with all laws; and

WHEREAS, the Board recognizes that changes to federal laws such as proposed changes to the Fair Labor Standards Act require action by the Board.

NOW THEREFORE BE IT RESOLVED THAT THE ATTACHED PERSONNEL RULES ARE APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 4TH DAY OF NOVEMBER, 2016

Miguel Chavez, Vice-Chair

Approved as to form:

Peter Dwyer, Counsel

NORTH CENTRAL REGIONAL TRANSIT DISTRICT
PERSONNEL RULES AND REGULATIONS

Adopted by Resolution No. 2016-39 amending prior Personnel Rules and Regulations adopted by Resolution No. 2012-16 and 2013-15.

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RULE 1 – GENERAL PROVISIONS AND PURPOSE

1.1 Authority.

The North Central Regional Transit District (hereinafter the "NCRTD" or the "District" has the responsibility and authority to enact these Personnel Rules and Procedures pursuant to NMSA 1978, Section 73-25-5.

1.2 Prior Rules.

The District Personnel Rules and Regulations (hereinafter the "Rules") in effect prior to the date of adoption of these amended Personnel Rules and Regulations, and all amendments thereto are hereby superseded. These policies also supersede all previous written and unwritten guidelines and past personnel practices of the District and also supersede any current Department or Division policy or procedure inconsistent with those set forth herein. Separate Department or Division policies that are more restrictive due to the operational needs of the Department or Division shall remain in effect, subject to the approval of the Executive Director.

1.3 Compliance.

All persons operating under the provisions of these Rules shall conform to, comply with, and aid in all proper ways in carrying out the provisions of these Rules.

1.4 Purpose.

These Rules are prescribed for the purpose of providing a modern personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment to all applicants for employment and to all employed by the District.

1.5 Management Authority.

A. The District is created pursuant to state statute by way of an intergovernmental contract between its member entities who appoint representatives to the Board of Directors (hereinafter the "Board") for the District. The Board determines and enacts District personnel policy. The Board does not make personnel decisions other than the selection of the Executive Director.

B. The Executive Director serves as the chief executive officer of the North Central Regional Transit District ("District") and is responsible for the administration of the entire District including any Divisions or Departments which may be created. The Executive Director executes the policies and directives enacted by the Board and supervises the expenditure of appropriated funds. Authority is delegated to the Executive Director for the administration of the District's Rules. The Executive Director may issue interpretive memoranda as may be necessary to interpret and enforce the provisions of the Rules. No contracts of or offers of employment may be made without the consent and signature of the Executive Director.

C. The District retains all customary, usual and exclusive rights, functions, prerogatives and authority connected with or incident to its responsibility to manage the affairs of the District. The exclusive prerogatives, functions and rights of the District include but shall not be limited to the following:

1. Determine the mission, budget, organization and number of Employees allocated by Position to meet the minimum staffing levels of its operations and Departments;

2. Determine qualifications for employment; validate content of examinations; make requests for Position audits and Reclassifications; and ensure that best practices exist for the recruitment, interviewing and selection of applicants;

3. Direct Employees and evaluate their performance based on standards of work established by the Employer;

4. Make assignments, Transfer, or retain Employees in positions, and make determination of job duties;

5. Provide reasonable rules and regulations governing the conduct of Employees;

6. Provide reasonable standards and rules for Employees' safety;

7. Determine the location and operation of its facilities;

8. Determine standards for work, hiring, Promotion, Transfer, assignment and retention of Employees in positions;

9. Initiate corrective and/or Disciplinary Action including, but not limited to, coaching and guidance, written reprimands, Suspensions, Demotions, alternate forms of discipline, Transfers and Terminations;

10. Determine scheduling and all other actions necessary to carry out the Employer's functions;

11. Relieve an Employee from his/her duties because of lack of funds, Reduction in Force, inability to return to work, or other legitimate reason; (note not in CBA)

12. Maintain efficiency of government operations; determine methods, means, equipment and personnel by which the Employer's operations are to be conducted;

13. In cases of an emergency or declared disaster, take such actions as may be necessary to carry out the missions of the Employer even if it requires some variation from the strict application of these Rules or any collective bargaining agreement; and

14. Act in furtherance of all other duties and responsibilities set forth in the Constitution, federal laws, state statutes, administrative regulations, and executive orders of the President and Governor, as well as North Central Regional Transit District Resolutions, and these Rules.

This list is not an all-inclusive list of all of the District's rights, functions, prerogatives or authority, but only serves a general guide. The District expressly reserves, and the District retains all customary, usual and exclusive rights as set out in in this paragraph of these Rules, unless expressly set forth to the contrary in any agreement.

1.6 Coverage.

These Rules cover all District Employees except the Executive Director to the extent that his contract of employment varies from these Rules.[1] Notwithstanding the general application of these Rules to all Employees the District can and shall, within the prescribed limits of the law, provide different standards for performance, review, and Disciplinary Action based upon the duly adopted Classification and Compensation policies of the District. These Rules do not apply to independent contractors who are not covered by the District Classification and Compensation policies.

Furthermore, it is recognized that the District has certain Employees that are covered by a Collective Bargaining Agreement. The specifics of the Rules herein have not been the subject of collective bargaining. The Collective Bargaining Agreement recognizes the District's right to establish and maintain such Rules. The Rules contained herein shall apply to bargaining unit Employees so long as and to the extent that they do not conflict with the terms of any Collective Bargaining Agreement.

1.7 Merit Principles.

The District adopts the following merit principles as standards for implementation of these Rules:

A. Recruiting, selecting, and advancing Employees will be on the basis of their ability, knowledge, and skill, including open consideration of qualified Candidates for initial employment.

B. Equitable and adequate Compensation will be provided.

C. Employees will be trained as needed to assure high-quality performance.

D. Employees will be retained on the basis of the adequacy of their performance and provisions will be made for correcting inadequate performance and separating Employees from employment if inadequate performance cannot be corrected.

E. Candidates and Employees will be treated fairly in all aspects of personnel administration without regard to race, color, religion, Disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status, or other non-merit factors, and with proper regard for their primary and constitutional rights as citizens will be assured.

F. Merit principles may be administered by way of performance and development plans.

1.8 Nepotism Prohibited.

A. Persons shall not be employed by the District in a Position where they would supervise or be directly supervised by any person related to them by blood or marriage to the third degree, or where they would supervise or be directly supervised by a Domestic Partner. It is incumbent upon all Employees and Candidates to inform the District of any relation or relationship which could limit or effect the Employee or Candidate's hiring, Promotion, Transfer or management of other District Employees under this nepotism policy. Failure to report a relation or relationship that results in a violation of this nepotism policy is grounds for Disciplinary Action up to, and including Termination.

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[1] The Executive Director is covered by an employment agreement and is an At-Will employee.

B. The following persons are relatives within the third degree:

Employee's spouse or Domestic Partner,
child
brother
sister
grandparent
grandchild
great-grandparent
great-grandchild
aunt (sister of parent)
uncle (brother of parent)
nephew (son of brother or sister)
niece (daughter of brother or sister)

if the Employee is married, or has a Domestic Partner, relatives of such spouse or Domestic Partner, as listed above, are included in this prohibition.

C. The Executive Director, and all Supervisors may neither immediately supervise nor directly hire relatives as defined above.

D. The District shall refrain from hiring, Transferring, and promoting Employees where such action would violate the terms of this nepotism policy. If the District was not aware of a situation that would constitute a violation of the terms of this nepotism policy and becomes aware of the situation after the fact, the District shall take any steps necessary, up to and including Transfers, Demotions and Termination of Employees, in order to ensure that this prohibition on nepotism is upheld.

1.9 Equal Employment Opportunity and Sexual Harassment-Discrimination and Harassment Prohibited.

A. The District is an "equal opportunity employer." The following acts of discrimination on the part of any person (Employee) are expressly prohibited, and if such discriminatory acts occur, the person responsible for the act(s) is subject to Dismissal or Suspension from District employment or other appropriate Disciplinary Action. No District Employee shall:

1. Unless based on a Bona fide occupational qualification, refuse to hire, discharge, promote or demote or to discriminate in matters of Compensation against any person otherwise qualified, because of the person's inclusion in a Protected Class.;

2. Deny equal treatment or otherwise favor any Employee on the basis of the person's inclusion in a Protected Class.;

3. Print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for employment or membership to make any inquiry regarding prospective membership or employment which expresses, directly or indirectly, any limitation, specification or discrimination as to a Protected Class.;

4. Discriminate, intimidate, or retaliate against any person because he/she has filed a complaint, testified or participated in any proceedings under this section;
5. Aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section; or attempt to do so;

6. Attempt to favor or deny treatment to any Employee or prospective Employee or attempt to cause any person to violate the terms of these Rules on the basis of the person's inclusion in a Protected Class.

B. Sexual Harassment is prohibited and unacceptable in the NCRTD workplace and at any work related events. Sexual Harassment may occur between persons of the same gender, by a female against a male or by a male against a female. Some examples of conduct which may constitute Sexual Harassment are:

1. Sexual advances, requests for sexual favors, repeated unwelcome requests for dates;

2. Sexually oriented comments, jokes, teasing, language or gestures;

3. Display of sexually related material such as calendars, posters, and inappropriate electronic wallpaper;

4. Staring or leering, in a suggestive manner;

5. Viewing of inappropriate text messaging or e-mails which contain sexually suggestive or demeaning comments, jokes, graphics or pictures ("sexting");

6. Viewing of inappropriate text messaging or e-mails which contain sexually suggestive or demeaning comments, jokes, graphics or pictures ("sexting");

7. Inappropriate touching, pinching, patting, grabbing, or brushing against a person;

8. Promising a Promotion or job benefit if the Employee will consent to sexual relations;

9. Taking adverse action against an Employee who does not consent to sexual relations.

C. Harassment on the basis of any Protected Class is also prohibited and unacceptable in the NCRTD workplace. This policy also covers harassment on the basis of race, color, sex (gender), religion, national origin, ancestry, pregnancy, physical or mental Disability, genetic history, sexual orientation. Harassing conduct may include derogatory comments, racial epithets, ethnic slurs, negative stereotyping and any type of conduct which shows hostility towards an Employee because of his/her Protected Class.

D. Retaliation is Unlawful

NCRTD prohibits retaliation against an Employee who reports or complains of harassment or discrimination or who participates as a witness in an EEO investigation. Non-managerial Employees and Managerial Employees who are proven to have engaged in retaliation against a complainant or witness will be subject to Disciplinary Action including the possibility of Termination.

1.10 Workplace Violence.

The District is committed to ensuring a safe working environment for all Employees. Both management and non-management Employees have a responsibility to assist in establishing and maintaining a violence-free work environment. Therefore, all Employees are responsible for reporting all acts of violence or behavior, which could potentially lead to violence.

A. Any Employee who is found to have committed workplace violence will be subject to corrective action and may be directed to stay away from District premises. Violators may also be subject to civil and criminal prosecution.

B. Additionally, where an Employee is convicted of a crime of violence or threat of violence under any criminal code provision for non-workplace conduct, the District reserves the right to determine whether the conduct involved may adversely affect the legitimate business interests of the District, and as a result may implement corrective action. Any Employee convicted of such a crime must report the conviction to the District absent a court order to the contrary. Failure to do so is a violation of this policy and subjects the Employee to corrective action.

C. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated and are deemed a violation of these Rules. Any Employee determined to have committed such acts will be subject to Disciplinary Action, up to and including Termination. Non-Employees engaged in violent acts on the District's premises and property will be reported to the proper authorities. Possession of Weapons (not assigned as a tool of a job assignment) on any District premises and property, including vehicles, parking facilities and District sponsored events constitute a threat of violence. The threat of violence may include, but is not limited to, any indication of intent to harm a person or damage District property. Threats may be direct or indirect and they may be verbal or nonverbal.

D. The District reserves the right to conduct reasonable workplace inspections at any time, with or without notice, for purposes of enforcing this policy, including searching:

1. Outer clothing, packages, handbags, briefcases, lunch bags, boxes, and/or other containers being taken in or out of the District's buildings, or to or from the District's premises;

2. Vehicles parked on District property (owned, leased or occupied), or District-owned vehicles;

3. All workstations, computer files, book shelves, lockers, desks, credenzas, file cabinets, store rooms and other areas.

Any refusal to permit an inspection or interference with inspections may result in corrective action. The discovery of any violation of any other District policy as a result of such search may also result in corrective action. Any illegal activity discovered during an inspection is subject to referral to the appropriate law enforcement authorities.

E. The District does not tolerate any type of workplace violence committed by or against Employees. Employees are prohibited from making threats or engaging in violent activities.

The following list of behaviors, while not exclusive, provides examples of conduct that is prohibited:

1. Threatening physical or aggressive contact directed toward another individual or engaging in behavior that causes reasonable fear of such contact.

2. Threatening an individual or the individual's family, friends, associates, or property with physical harm or behavior that causes a reasonable fear of such harm.

3. Intentional destruction or threat of destruction of the District's or another's property.

4. Harassing or threatening physical, verbal, written or electronic communications, including unnecessary and rude behavior intended to be offensive (bullying), verbal statements, phone calls, e-mails, letters, faxes, website materials, diagrams or drawings, gestures, and any other form of communication that causes a reasonable fear or intimidation response in others.

5. Stalking.

6. Veiled threats of physical harm or intimidation or like statements, in any form, that lead to a reasonable fear of harm or an intimidation response in others.

7. Communicating an endorsement of the inappropriate use of Weapons of any kind.

8. Possessing Weapons of any type on one's person during regular work hours, or at any time on District property.

F. The District prohibits acts of Domestic Violence to the maximum extent permitted by law. Where any acts of Domestic Violence occur on District premises or property, this policy applies. Where any acts of Domestic Violence occur off District premises or property this policy applies if the abuser is someone acting as an Employee or representative of the District at the time, where the victim is an Employee who is exposed to the conduct because of work for the District, or where there is a reasonable basis for believing that violence may occur against the victim or others in the workplace.

G. The District will take appropriate action for acts of violence and threats of violence. Such incidents will lead to Disciplinary Action up to and including Termination. While the District does not expect Employees to be skilled at identifying potentially dangerous persons, Employees are expected to exercise good judgment and to inform the Human Resources Office or their Supervisor if any Employee exhibits behavior that could be a sign of potentially dangerous situations. Such behavior includes:

1. Discussing Weapons or bringing them to the workplace;

2. Displaying overt signs of extreme stress, resentment, hostility, or anger;

3. Making threatening remarks;

4. Sudden or significant deterioration of performance;

5. Displaying irrational or inappropriate behavior.

1.11 Reporting Procedures.

All Employees and managers are expected to comply with the NCRTD Rules regarding discrimination, harassment, Sexual Harassment and violence. If a Supervisor or manager becomes aware that prohibited acts are occurring in the workplace, it is the responsibility of the Supervisor or manager to take immediate action to stop the violation of these Rules and report it to the NCRTD Executive Director. If appropriate in the judgment of the Employee and Supervisors involved, call 9-1-1. Under this policy, decisions may have to be made quickly to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing. Nothing in this policy is intended to prevent quick action to stop or reduce the risk of harm to anyone, including requesting immediate assistance from law enforcement or emergency response resources.

A. If any person believes they are the victim of harassment, Sexual Harassment, or discrimination; or if they have witnessed such conduct, they should immediately report it to an NCRTD Supervisor or Manager. Employees have the option to report their complaint to their immediate Supervisor, an NCRTD Manager, the NCRTD Human Resources Director, or the Executive Director. Appropriate forms will be provided to Employees reporting prohibited acts. If a report form has not been completed by the Employee, the Supervisor shall complete a report form and forward the report to the Human Resources Office.

B. NCRTD will make reasonable efforts to maintain the confidentiality of complaints to the extent that it is possible. NCRTD encourages the prompt reporting of concerns in order to take appropriate corrective action before the harassment, discrimination, or retaliation becomes severe or pervasive.

C. All complaints of harassment, discrimination and retaliation will be promptly investigated. All Employees are expected to be honest and cooperative during the investigation. Appropriate disciplinary measures, including the possibility of Termination, will be taken against the offending Employee if it is determined that he/she violated the NCRTD Anti-Harassment Policy.

D. Failure to report any threats or acts of violence in violation of this policy is itself a violation of this policy, and may subject any Employees involved to corrective action. This includes reports by Supervisory personnel who may be privy to threats that have been made by another Employee.

E. Retaliation against anyone for reporting in good faith an actual or suspected violation of these Rule will not be tolerated and will subject the individual engaging in the retaliation to corrective action. Any complaints about retaliation may be reported in the same manner as violations of these Rules are to be reported.

F. Investigation. All reported incidents of violence and threats of violence will be investigated appropriately. The District will decide whether its workplace violence policy has been violated and whether preventive or corrective action is appropriate. The District may consult with law enforcement authorities or other resources as it deems appropriate, and may require a fitness for duty examination or other professional assessment through providers chosen by the District

to determine whether a person presents a threat to individuals in the workplace. If a violation of this policy occurs, the District will take appropriate preventive and corrective action.

G. False Reporting. In the event that it is determined through an investigation that any Employee falsely accused another Employee of a violation of these Rules, the accuser will be investigated and may be subject to corrective action.

1.12 American with Disabilities Act.

A. The District will not discriminate against qualified individuals with disabilities in regard to the application procedures, hiring, advancement, discharge, Compensation, training, or other terms and conditions of employment.

B. The District will provide reasonable accommodation to qualified individuals with a Disability so that they can perform the Essential Functions of the job.

C. An individual who can be reasonably accommodated for a job, without undue hardship, will be given the same consideration for a Position as any other applicant.

1.13 Immigration Reform and Control Act, 1986.

The Immigration Control and Reform Act of 1986, requires that all newly hired, or re-hired, Employees present documented proof of identity and eligibility to work in the U.S. The District and its new Employees shall complete the Employment Eligibility Verification form, I-9 within three days of hire and the District shall verify Employee eligibility for employment by obtaining copies of appropriate identification information or use of "E-Verify.".

1.14 Drug and Alcohol Free Workplace and Related Policies.

The District is committed to maintaining a Drug and Alcohol free workplace. Any questions Employees may have about this policy, its administration, or assistance in complying with the policy including any Employee assistance programs, shall be directed to the Human Resources Director.

A. It is the District's policy that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including alcohol, in or on any District owned property is prohibited.

B. All Employees who hold a commercial driver's license and are required to operate vehicles for the District as part of their employment are subject to the U.S. Department of Transportation substance abuse testing procedures as outlined in the Districts Drug and Alcohol policies including but not limited to the testing programs.

C. The District recognizes that Employees are a valuable resource and wants to assist any Employee who voluntarily comes forward and requests assistance with chemical dependency provided that the Employee:

1. has not received Notification to report for drug/alcohol testing in the six-week period prior to his request for assistance,

2. has not been identified as a violator nor is under investigation for a violation of the District's Drug and Alcohol policy, and

3. has agreed to utilize the services available through the District's Health Insurance carrier.

D. Specific policies may be developed further defining the terms used in this Rule as well as procedures for implementation of specific District policies on drugs and alcohol and Federal laws. All policies implementing or amending these Rules regarding the District Drug and Alcohol policy shall be adopted by the District's Board and provided to all Employees following adoption.

E. Employees found in violation of this Rule are subject to Disciplinary Action up to and including Dismissal.

F. Employees who are not subject to U.S. Department of Transportation substance abuse testing may still be subject to the District's Drug and Alcohol policies. Employees are responsible for periodically reviewing the Districts Drug and Alcohol policies when they are revised and distributed.

1.15 Drug and Alcohol Policies.

The District Drug and Alcohol policy is separately adopted and may be revised from time to time but shall be deemed a part of these Rules and Regulations and is hereby integrated by reference. The District expressly prohibits all operation of vehicles when impaired by drugs regardless of whether the drug is a properly prescribed prescription drug or over-the-counter medication. It is incumbent upon every Employee to provide their doctors and pharmacists with sufficient information about the nature of their employment and job duties to make informed decisions about proper medication use while performing District functions.

1.16 Employee Responsibilities.

A. It is the duty and responsibility of every Employee to be aware of and abide by these Rules along with any additional rules and regulations which may from time to time be promulgated and updated by the District. The District shall provide copies of any new or modified rules, regulations and policies regulating the conduct of Employees and their work.

B. It is the responsibility of the Employee to perform his/her duties to the best of his/her ability and to the standards set forth in his/her job description or as otherwise established for the type of work performed.

C. Employees are required to work at the times, places and in the manner prescribed for their particular work functions by District Supervisors and to arrive and depart from work in timely fashion to ensure the efficient and timely operation of the District's business. Supervisors are responsible for maintaining attendance and tardiness records on their Employees.

D. Standards for Dress and Appearance: The District is a professional organization. All Employees must present a professional appearance by wearing attire appropriate for their job Classification in order to promote a positive image of the District and its Employees and operations. The general public, other agencies and co-workers may form their initial impression of the District's professional credibility solely on Employee appearance. Therefore, it is the responsibility of

each Employee to ensure that the District's image, appearance and professionalism is preserved through appropriate dress and appearance. This policy is intended to provide general standards on dress and appearance and is not meant to address all situations. There may be differences in some dress standards depending on the nature of the work environment, nature of the work performed, involvement with the public, required uniforms or other circumstances. In General Employees shall abide by the following standards:

1. All clothing and accessories should be functional, in good repair, and safe.

2. Employees not required to wear uniforms should wear clothing that is neat and clean, and suitable for business.

3. Employees required to wear uniforms should wear uniforms that are clean, fresh, and mended if necessary. Uniforms bearing a District identification patch may not be worn, unless on duty.

4. Personal hygiene is essential. Therefore, it is necessary that all Employees maintain a clean, presentable appearance. Personal hygiene includes bathing/shower, and such other steps as are reasonably necessary to ensure that Employees do not offend customers or coworkers due to lack of hygiene.

E. Upon separation from the District, any and all District issued equipment and property including but not limited to uniforms, identification patches, keys, records, identification cards, passwords, electronic files, and all other information or property of the District must be returned to the District.

F. Employees are required to Notify their Department manager or the Manager's Designee, their Supervisor, and Human Resources Office if they have a change of residence or telephone number within ten (10) business Days. Employees are required to Notify the Human Resources Office if they have a change in Domestic Partnership, marital status (marriage, divorce, widowed) or change in number of dependents within fifteen (15) calendar Days. New dependents not enrolled in the Employee insurance benefits within fifteen (15) calendar Days may be enrolled during the next open enrollment period or as otherwise permitted by law.

1.17 Employee Performance and Development Plan.

A. The performance of each Employee will be appraised by the immediate Supervisor at the completion of the Probationary Period and annually thereafter with an optional interim appraisal done at the sixth month.

B. This appraisal will be documented on a form approved by the Executive Director and will become a part of the Employee's personnel file.

C. Supervisors may prepare performance development plans whenever it is deemed appropriate, such as when a Supervisor wishes to make an Employee's performance a matter of record and upon change of Supervisors.

D. The Executive Director will provide a training program in the proper method of appraisal for Supervisory Employees.

E. Employees are required to acknowledge in writing, receipt of performance and development plans. In instances where an Employee declines to sign such acknowledgment, the Supervisor will verify in writing that the Employee received the performance and development plan. Employees may submit rebuttal statements to performance and development plans which will be attached to the performance and development plan. Management may consider the rebuttal and may elect to change the performance and development plan based upon the rebuttal. But, nothing in the rebuttal shall serve to abridge management's right to prepare, submit, evaluate, update and potentially take Disciplinary Action or require training based on the performance and development plan nor shall management be compelled to change its performance and development plan by the submission of a rebuttal.

1.18 Training.

A. The primary responsibility for training Employees shall be assumed by District management. District management will utilize performance and development plans as an indicator of an Employee's need for training. Supervisors should consult with Employees during the preparation of their performance and development plans regarding their training needs. Training shall be provided as needed but the District may prioritize training for Employees who have a demonstrated long term commitment to employment with the District.

B. The Executive Director shall require Supervisors to determine the training needs of Employees and establish and implement programs to meet such needs. Priority shall be given to training that is required by law, training that effects safety, and training that will provide long-term benefits to the District.

1.19 Temporary Modifications to the Rules.

The Executive Director may temporarily modify or waive any of these Rules if it would be reasonable, appropriate, lawful, and necessary for the orderly and efficient administration of the District. The Executive Director shall promptly Notify the Board of any temporary modifications made pursuant to this section and shall not modify the rules at a time or in a manner that would be unfair or inequitable to District Employees. Nothing herein shall be deemed to prohibit temporary pay increases when duly authorized by the Executive Director for Employees who are required by the District to perform functions beyond those of their current Classification such as interim or acting Supervisory duties.

1.20 Permitted Political Activity.

All Employees are permitted to engage in political activities but shall not do so while engaged in NCRTD business, nor upon the vehicles, premises, or any other facilities of the NCRTD, nor in a manner that creates the appearance of NCRTD involvement in political activity. Employees of the NCRTD:

A. are encouraged to register and vote and have a right to express their opinions on all political subjects and candidates on their own time or on authorized leave;

B. may serve as convention delegates on their own time or on authorized leave;

C. may attend political rallies on their own time or on authorized leave;

D. may engage in political activity on their own time or on authorized leave to include signing nomination petitions and making voluntary contributions to political organizations;

E. may serve as an election official on their own time or on authorized leave;

F. may be a member of a local educational board or any other non-partisan elected office, (which shall not be construed to be holding political office), provided the Employee is on their own time or authorized leave as necessary;

G. may engage in any political activities permitted under the constitutions and laws of the United States and the State of New Mexico.

1.21 Prohibited Political Activity.

All Employees are prohibited from:

A. Using official District property, letterhead, authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose;

B. Using official District property, letterhead, authority or influence for coercing, attempting to coerce, commanding or advising an Employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;

C. Threatening to deny Promotion to any Employee who does not vote for certain candidates, requiring Employees to contribute a percentage of their pay to a political fund, influencing subordinate Employees to buy tickets to political fund-raising events, advising Employees to take part in political activity and matters of a similar nature;

D. Engaging in political activity while on duty, including but not limited to the following:

i. Wearing campaign buttons or displaying campaign literature in public view for any federal, state or local election;

ii. Displaying political advertisements on District-owned vehicles;

iii. Using any District equipment, supplies, or property for political campaign purposes for any federal, state or local election;

iv. Circulating partisan political nominating petitions;

v. Soliciting political contributions or participating in partisan fund raising activities;

vi. Introducing or meeting with political candidates for the purpose of soliciting support for their campaign.

1.22 Holding or Running for Public Office.

A. The Hatch Act (5 U.S.C. Sections 1501 to 1508) restricts the political activity of individuals principally employed by state or local agencies who work in connection with programs financed in whole or in part by federal loans and grants. District Employees who are

considering political activity should consult their own legal counsel to determine whether the Hatch Act applies to them. The following are District restrictions for Employees covered by the Hatch Act.

1. Employees covered by the provisions of the Hatch Act may be candidates in nonpartisan elections, if, upon filing or accepting the nomination and during the entire campaign, the Employee is authorized to use leave.

2. Employees covered by the provisions of the Hatch Act may not be candidates in partisan elections.

3. Employees not covered by the provisions of the Hatch Act may be candidates for any public office, if, upon filing or accepting the nomination and during the entire campaign, the Employee is authorized to use leave.

For more details on the Hatch Act and its application to District Employees see:

http://www.osc.gov/hahelpfulInformStateSeparate.htm.

1.23 Time Limits under these Rules.

All Days indicated as "Day" or "Days" shall be work days unless these rules expressly provide otherwise. In the event the last day of a time limit falls on a weekend or legal holiday, the time limits shall be extended to include the next working day. Receipt of written notice shall mean the day that the notice is received if hand-delivered or the day the notice is postmarked by registered mail to the address of record for the Employee or the date an e-mail is sent unless there is reason to believe the e-mail recipient did not actually receive the e-mail. The time limits set forth in this procedure may be subject to extension under exceptional circumstances as determined by the Executive Director. In processing the complaint, the following procedure shall apply:

RULE 2 – EMPLOYMENT – SELECTION PROCESS

2.1 Classified Job Posting.

A. All job openings in Classified positions shall be posted on designated District bulletin boards and advertised internally for a minimum of ten (10) Days to allow current interested Employees the opportunity to apply and advance in their careers in the District. Internal posting and recruitment does not preclude the NCRTD from performing concurrent external recruitment efforts. Internal postings are not required when the District fills an opening by Promotion or internal Transfer of an existing District Employee or accretion of Employees through consolidation of operations by the District and another transit service provider.

B. During the ten (10) Day internal recruitment period the Position may be filled internally without further recruitment or analysis of potential eligible Candidates. Following the 10 Day internal recruitment period the opening may only be filled by a Candidate who is qualified pursuant to these Rules and the District's selection process.

2.2 Classified Job Openings filled by Promotion Internal Transfers and Accretion of New Employees.

A. Promotion.

1. Any Classified Employee who has demonstrated continuous satisfactory service may be eligible to be promoted.

2. Employees may be eligible to be promoted to any Classification if they meet the minimum qualifications and pass any test deemed appropriate or required by the District.

3. Management may select any Candidate, or Employee, for Promotion so long as the selection complies with these Rules.

4. Promotions approved by the Executive Director will be effective on a date selected and approved by the Executive Director.

5. Promotional increases in Compensation are permitted to the extent they are consistent with the District's Compensation and Classification Plan. The pay of an Employee who is promoted shall be adjusted at a minimum to the bottom of the new pay Range. The pay of an Employee who is promoted shall generally be increased by a minimum of ten (10) percent unless a higher or lower rate is expressly authorized by the Executive Director.

B. Internal Transfers.

1. The Executive Director, may Transfer an Employee from one work site, position, or Division within the District to another without the Employee's written consent, if the Transfer is deemed in the best interest of the District, provided that the Employee meets the minimum qualifications for the new Classification and the District has complied with any requirements of any current Collective Bargaining Agreement regarding assigning or Transferring the Employee to meet District requirements.

2. An Employee shall retain accrued annual sick and personal leave, if applicable, upon Transfer.

C. Accretion of New Employees.

If the District merges its operations with other transit providers and accretes Employees from another entity the District shall:

1. Abide by the terms of any written agreements regarding the accretion so long as the terms of the agreement are legally permissible and do not require the hiring of Employees who fail to meet minimum requirements for a Position or fail to make timely application and acceptance of any District job offer;

2. Assess the accreted Employee's job description, Compensation and Classification;

3. Provide the accreted Employee with notice of how the accreted Employee would fit into the Districts Compensation and Classification system, any changes to their job assignments and job description, and any changes to Compensation or benefits that would occur should the accreted Employee become a District Employee;

4. Offer jobs, Compensation and benefits to any accreted Employee consistent with the District's Compensation and Classification Plan; and

6. Fill any job openings created by the merger of operations or any revised organizational structural requirements resulting from the merger of operations by offering jobs to accreted Employees prior to posting the job positions, making internal Transfers of District Employees, promoting District Employees or seeking to fill job openings with new Candidates that are neither existing District Employees or accreted Employees.
7. Nothing herein shall be deemed to require that the District retain or manage Employees in a manner inconsistent with these Rules or the Districts various policies and procedures and these rule shall not create an employment right in any person who is not duly hired by the District.
8. The District shall not rehire any Employee who has an existing personnel file that includes a designation of "not eligible for rehire" due to a prior separation from employment with the District.

2.3 Recruitment, Hiring and Promotion of Exempt Employees

The Executive Director shall have discretion to vary from the hiring process utilized for Classified Employees when hiring Exempt Employees. Notwithstanding the discretion granted herein the District shall abide by the merit principles and all prohibitions and restrictions of these Rules regarding Suspect Classes and nepotism when hiring Exempt Employees.

2.4 Temporary Promotion.

A. The District may temporarily promote an Employee who meets the minimum qualifications for a Position at the discretion of the Executive Director.

B. A temporary Promotion shall be for a period of at least thirty (30) Days or greater but not more than twelve (12) months.

C. Temporary Promotions within the same Classification level by Employees who meet minimum requirements for a job will result in a temporary pay increase to the minimum pay of the new job, or a temporary pay increase of up to 10 % if the Employee's current pay exceeds the minimum of the new job. In no event shall the temporary Promotion permit an increase in pay that would violate the District's Compensation and Classification plan by paying an Employee more than permitted for a given Classification. However, the Executive Director may provide such other Compensation and benefits as may be reasonably required to induce Employees to assume the additional responsibilities of a temporary Promotion so longs as the Compensation or benefits are commensurate with the additional duties.

D. Temporary Promotions from any lower level Classification to any higher level Classification will result in a pay increase to the minimum pay of the new job, or up to a 10% increase if the Employee's current pay exceeds the minimum of the new Classification.

2.5 Recruitment for Posted, Advertised Positions.

A. All applications for positions with the District shall be made on forms prescribed by the Executive Director. Such applications shall include information, which is determined necessary or is mandated by State or Federal law, or regulations. All applications shall be signed, dated and the truth of the statements contained therein certified by the Candidate's signature.

B. No question on any form of application shall be so worded as to elicit information concerning inclusion in a Suspect Class of any Candidate, except information required to assist with equal employment opportunity efforts. Furthermore, no inquiry shall be made concerning inclusion in a Suspect Class during any interview, and all such disclosures, thereof, shall be disregarded, unless such information is deemed a Bona fide occupational qualification.

C. The District may compile and analyze applications and applicants in any manner that is consistent with these Rules and is reasonably calculated to ensure that the District hires meritorious and qualified applicants.

D. All applicants shall inform the district of any relations or relationships that could constitute a violation of the District's policy on nepotism.

E. The District may require releases from applicants as a condition prior to making any job offer to the Candidate. Releases may be required to obtain any relevant work history, educational background, criminal background or to speak with any person used as a reference during the application process. Nothing herein shall be deemed to preclude the District from making job offers that are conditioned upon a subsequent determination that the Candidate is qualified to perform the job based upon the background checks authorized herein.

F. The Executive Director is authorized to adopt administrative policies regarding the process for obtaining background information from Candidates and any criteria for assessing the responses to background checks including but not limited to criteria which would disqualify a Candidate from District employment. Any such regulations shall comply with minimum requirements of these Rules regarding Suspect Classes and shall be written and implemented to ensure that disqualifications do not occur where such disqualification would constitute a violation of the express provisions of these Rules.

2.6 Application for Employment or Promotion-Filling.

A. All applications for positions with the District shall be made on forms prescribed by the Executive Director. Such applications shall include information, which is determined necessary or is mandated by State or Federal law, or regulations. All applications shall be signed, dated and the truth of the statements contained therein certified by the Candidate's signature.

B. No question on any form of application shall be so worded as to elicit information concerning inclusion in a Suspect Class of any Candidate, except information required to assist with equal employment opportunity efforts. Furthermore, no inquiry shall be made concerning inclusion in a Suspect Class during any interview, and all such disclosures, thereof, shall be disregarded, unless such information is deemed a Bona fide occupational qualification.

C. All applicants shall inform the district of any relations or relationships that could constitute a violation of the District's policy on nepotism.

2.7 Applicant Preference.

To the extent permitted by laws, Candidates may be given preference for positions if:

A. they are current classified Employees;

B. they are accreted Employees from a merger of District operations with another transit provider and are given preference as part of the accretion process and pursuant to any plan adopted for the accretion of another entities Employees;

C. they have reemployment rights due to a prior Reduction in Force or pursuant to a Collective Bargaining Agreement;

D. they have special status as veterans; or

E. preference is otherwise allowed by state or federal law.

2.8 Proof of Veteran Status.

Proof of eligibility for veteran preference shall be presented to the District at the time the application is filed.

2.9 Rejection of Application.

A. Applications may be rejected if the Candidate:

1. fails to meet the required minimum qualifications as stated in the job description;

2. has been convicted of a felony or a misdemeanor and the provisions of the Criminal Offender Employment Act, Sections 28-2-1 to 28-2-6, et seq., NMSA 1978, permit such rejection:

a. Subject to the provisions of the Criminal Offender Employment Act, in determining eligibility for employment, the District may take into consideration the conviction after the applicant has been selected as a finalist for the position; however, such conviction shall not operate as an automatic bar to obtaining public employment unless otherwise provided by law to the contrary.

b. The following criminal records shall not be used, distributed, or disseminated in connection with an application for any District employment:

i. Records of arrest not followed by a valid conviction; and

ii. Misdemeanor convictions not involving moral turpitude.

c. The Executive Director may refuse to grant or renew, or may suspend or revoke the application of any Candidate or Employee for District employment for any of the following causes:

i. where the Candidate or Employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment;

ii. where the Candidate or Employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment and if the

Executive Director determines, after investigation, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.

d. The Executive Director shall explicitly state in writing the reasons for a decision which prohibits the person from engaging in District employment, if the decision is based in whole or in part on conviction of any crime described in Paragraph two of this section. Completion of probation or parole supervision or of a period of three years after final discharge or release from any term of imprisonment without any subsequent conviction, shall create a presumption of sufficient rehabilitation for purposes of Subsection c, ii, above;

3. has made any material omission, false statement or produced any false document in support of the application;

4. has failed to complete the application correctly or submit the application within prescribed time limits;

5. has submitted an application for a job that is closed for recruitment;

6. has attempted to use political influence in securing a District position; or

7. has otherwise violated these Rules.

B. The District shall notify each Candidate whose application is rejected.

2.10 Examinations-General.

A. Examinations shall be confined to those matters which test the Candidate's capability in areas which are directly job-related and which fairly, validly, and reliably test the capacity and fitness of the applicant to successfully discharge the duties of the Position for which the examination is administered.

B. Examinations may be written, oral, or physical, and may include but are not limited to performance tests, ratings of training, rating of education, or any combination of tests and procedures.

C. New tests may be developed in accordance with established professional techniques and relevant federal laws, regulations, and guidelines with the intent of measuring critical or important knowledge, skills, abilities, job duties, work behavior, or work necessary for successful job performance.

D. No test shall be administered by the District without such test having been approved by the Executive Director or by a duly authorized state or federal agency.

2.11 Exemption from Examination.

A. The Executive Director may exempt from competitive entrance tests those professional and technical persons who possess recognized registration or certification who are applying for positions, which require such registration or certification.

The Executive Director may also exempt from competitive entrance tests certain jobs where job-related ranking measures are not practical or appropriate.

2.12 Selection for Employment.

A. Applicants shall be selected who are best able to perform job requirements without regard for membership or inclusion in a Suspect Class, political affiliation or other non-merit factors.

B. The selected Candidate may not start employment until background checks, pre-employment physicals, and drug tests are successfully completed as required.

C. Those Candidates interviewed but not selected shall be notified in writing of their non-selection in a timely fashion.

2.13 Emergency Hiring.

A. An emergency hire is the employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare, or severely curtail the normal operations of the District.

B. If no Candidates are available for the Classification, the District may hire an apparently qualified person without testing.

C. An emergency hire may be converted to a probationary, regular, limited term, or temporary Employee with the approval of the Executive Director if the individual

1. passes the appropriate test; or

2. has taken but not passed the appropriate test; the Department Management certifies that the Employee is performing at a satisfactory level; and there are no available Candidates for the position.

D. No individual shall hold an emergency appointment longer than ninety (90) Days in any twelve (12) month period, unless approved by the Executive Director.

2.14 Reemployment Process

Former Employees who separated from the District in good standing may be re-hired by the District within one (1) year from the date of separation without recourse to analysis of additional Candidates. However, nothing herein shall be deemed to require reemployment of former Employees.

A. The individual must submit an application and meet the minimum qualifications for the Classification and the re-hire must be approved by the Executive Director.

B. Such individuals will be treated as a new Employee regarding Probationary Period, leave accrual, seniority, and other Employee privileges unless a Collective Bargaining Agreement expressly provides for contrary treatment.

C. Former classified Employees, who were laid off as a result of a Reduction in Force, may be offered reemployment by the District pursuant to the Rules and Regulations regarding Reduction in Force.

D. Former Employees who are listed as 'not eligible for rehire' in the District's personnel files shall not be eligible for reemployment with the District.

2.15 Probationary Period.

A. New Employees shall satisfactorily complete a Probationary Period as a precondition for continued employment by the District.

1. The Probationary Period for new, promoted or re-employed Employees is six (6) months.

2. Prior to the expiration of the Probationary Period a Supervisor may extend the Probationary Period up to an additional ninety (90) Days for further evaluation if, in the opinion of management, it is necessary to determine the Employee's ability to adequately perform the job, and the extension is approved by the Executive Director.

3. If leave without pay is taken during the Probationary Period, the Probationary Period shall be extended by the number of Days of leave without pay used by the Employee.

B. An Employee may be separated from employment by the District without a right of appeal or hearing at any time during the Probationary Period for any reason so long as the reason is not contrary to the express limitations in these Rules regarding Suspect Classes.

RULE 3 – CLASSIFICATION AND COMPENSATION

3.1 Authority.

The District has authority pursuant to NMSA 1978, Section 73-25-5 (G) (6) to appoint, hire and retain Employees, agents, engineers, attorneys, accountants, financial advisors, investment bankers and other consultants. In order to implement this authority on an equitable and fair basis the District hereby elects to implement a system of Classification and Compensation as further defined by these Rules. Classification and Compensation may be the subjects of separate District policies which may be changed from time to time independent of these Rules.

3.2 Preparation of Classification System.

The Executive Director or a contractor or agent shall prepare and maintain a Classification System which provides for a grouping of all positions in the District into Classifications on the basis of essential duties, responsibilities, and minimum qualifications required.

3.3 Content of Classification System.

A. The Classification System shall include the descriptions for the various Classifications, which may be subdivided or grouped as deemed appropriate. Each Classification shall be assigned a pay Range which shall be used by the District to ensure fair pay to Employees within each Classification.

B. Written descriptions for each Classification shall be prepared by the Human Resources Office, and approved and amended as necessary by approval of the Executive Director. These descriptions shall include:

1. The title of the Classification;

2. Examples of typical essential tasks performed, responsibilities, and working conditions;

3. A statement of the minimum qualifications required, including the kind and amount of training and experience, knowledge, skills, and abilities, physical requirements, and job-related personal attributes that an Employee should possess; and

4. Signature by the Executive Director and the date of the last revision.

3.4 Revisions to the Classifications.

A. Whenever the creation, abolition, subdivision, or consolidation of individual Classifications appears necessary, due to the creation of a new position, change in organization, or change in the duties of certain positions, a Classification may be revised and the revision must be submitted to the Executive Director for approval.

B. Any revisions that may reflect a major change in policy should be submitted to the affected Managers, Supervisors and interested parties in order to obtain input concerning such revisions.

C. When a Classification is revised, the title of Classification and in some cases the pay Range assignment may be affected. The pay of individual Employees in the revised Classification may not be reduced or increased without the approval of the Executive Director.

D. When there are revisions to the Classification system as a whole the revisions shall be submitted to the District Board for approval.

3.5 Allocation of Positions to Classifications.

A. Every Position in the District shall be allocated to a Classification; all positions substantially similar as to the tasks performed, as to the responsibilities exercised, and as to the minimum qualification requirements shown in the Classification descriptions, shall be allocated to that same Classification.

B. The title of a Classification shall become the title of positions under that Classification and shall be used on all official records and correspondence relating to individual positions within the Classification.

C. Department Management may recommend the allocation or Reclassification of positions to one of the Classifications in the Classification System or a new Classification, subject to approval by the Executive Director.

D. Department Management shall submit adequate documentation to support the recommended Reclassification of a Position to a different Classification.

E. Periodic audits to determine whether or not positions are properly allocated shall be conducted. If it is determined that a Position is improperly allocated, the Executive Director shall reallocate it to its proper Classification.

F. When a new Position is contemplated, the Position must be formally established before it may be filled. Except as otherwise provided by these Rules, no person shall be appointed to or employed in a Position until the Position has been allocated to a Classification and approved by the Executive Director.

3.6 Types of Employees.

The District recognizes the rights and duties of Employees and employers under New Mexico law which includes the employment contract between employer and Employee under these Rules. In addition to Classification of Employees the District distinguishes between types of Employees based upon the following standards.

A. A Classified Employee is a, full or part-time position, the duties of which do not terminate at any stated time. The term Classified Employee includes the status of said Employee as further defined herein.

B. An Exempt Employee (Non-classified) is a, full or part-time position, exempt from the classified service under the FLSA.

C. A limited term Employee is the employment of a person with benefits for a limited and specified time period, e.g., one year or longer subject to funding for the project or program. Limited term Employees are subject to these Rules and all other rules and regulations of the District, except for the right of appeal regarding separation from employment following the expiration of a term or project or program funding.

D. A temporary Employee is a person hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twelve months of continuous employment unless otherwise approved by the Executive Director. Temporary Employees are not eligible for benefits and have limited remedies for employment disputes as stated herein. Temporary Employees may be converted to Classified or limited term status in the same Classification and credited with up to six-months service towards completion of the Probationary Period at the time of the conversion with the approval of the Executive Director. Temporary Employees may fill in for Classified Employees on Long Term Disability, Family Medical Leave, Worker's Compensation or Extended Leave without pay. If the temporary assignment lasts for more than six (6) months, these Employees will receive the same insurance and paid leave benefits as Classified Regular Employees, beginning the seventh (7^{th}) month of their employment. However, these Employees will remain temporary for all other purposes.

E. An At-Will Employee is and Employee who is freely terminable and not subject to the requirements of these Rules regarding Disciplinary Action and Just Cause for purposes of Termination as further defined in these Rules. At-will Employees are not required to serve a Probationary Period due to the fact that they are freely terminable.

F. A full time Employee is an Employee who generally works 40 hours or more in a given work week or 80 hours or more within a given two week pay period.

G. A part time Employee is an Employee who works less than 40 hours per week or less than 80 hours in a given two week pay period.

3.7 Compensation Policy.

A. Compensation for District Employees shall be equitable and competitive with the market and in accord with the District's ability to pay.

B. It is the policy of the District that any comprehensive Compensation plan, for all Classifications of the District is subject to and limited by the availability of funds as determined by the Board. The Board shall be the final arbiter of available funds.

C. An Employee working 40 hours, minimum, per week is eligible to receive full benefits. An Employee working not less than 21 hours and nor more than 39 hours per week is entitled to partial benefits on a *pro rata* basis.

3.8 Preparation of the Compensation Plan—Pay Ranges.

A comprehensive Compensation plan for all Classifications in the District shall be prepared under the direction of the Executive Director. The Compensation plan shall take into consideration experience in recruiting for positions for the District, prevailing rates of pay in comparison to similar services in public and private employment (to the extent that such data is available), cost of living, and other benefits received by District Employees, and the District's financial condition and ability to pay.

3.9 Adoption of the Compensation Plan.

The Compensation plan (whether a part of a Compensation and Classification policy or otherwise) shall be adopted by resolution of the Board.

3.10 Revision to the Compensation Plan.

The Compensation plan may be revised upon the recommendation of the Executive Director and the approval of the Board.

3.11 Administration of the Compensation Plan.

A. The approved Compensation Plan shall constitute the official schedule of pay for all Classifications in the District to which such Compensation plan is applicable. The rates of pay for all persons in the District shall be approved by the Executive Director and no pay shall be approved unless it conforms to the approved Compensation plan.

B. No Employee in the District shall be paid less than the minimum nor greater than the maximum of the pay Range for the Classification as fixed by the Compensation plan unless otherwise provided for in these Rules.

C. The entry pay of any Employee of the District shall be the minimum pay in any applicable pay Range, unless a higher rate, in-grade hire, is authorized by the Executive Director because of the Candidate's exceptional qualifications, difficulty in recruitment, or other valid reason.

D. Increases in pay within the pay Range shall be based upon performance and shall require the approval of the Executive Director. Supervisors and the Executive director shall consider an Employee's compliance with District policies and procedures, job performance, competence and job knowledge when evaluating any increase in pay of an Employee.

3.12 Individual Pay Adjustments and Promotion.

A. Promotions within a Classification will result in a pay rate increase to, either the minimum pay for the Classification based upon the current Compensation plan, or up to 10% increase if the Employee's current pay rate exceeds the minimum Compensation for the Classification. The maximum pay for the Classification shall not be exceeded.

B. Promotions from a lower level Classification to any higher level Classification will result in a pay rate increase to the minimum pay for the Classification based upon the current Compensation plan, or up to a 10% increase if the Employee's current pay rate exceeds the minimum Compensation for the Classification. The maximum pay for the Classification shall not be exceeded.

C. A higher pay rate may be authorized upon Promotion by the Executive Director because of pay compaction; experience and qualifications; correction of pay inequities; or other valid reasons.

D. The pay of an Employee who is laterally Transferred to a comparable Position shall remain the same unless the Executive Director finds cause for a pay increase due to any change in employment conditions, job assignment or particular duties caused by the change.

E. The pay of an Employee who is re-employed after being called to military active duty in accordance with the provisions of Rule 4.21 shall be at a rate equal to what the Employee would have attained had the Employee not been called to active duty.

3.13 Decreases in Pay

A. If an Employee is demoted for their inability or unwillingness to perform the assigned duties and Essential Functions of their position, then that Employee may also suffer a decrease in pay. The amount of the pay reduction shall be determined on a case-by-case basis, but never shall decrease pay below the lowest pay for the Classification.

B. An Employee may receive a reduction from their current Classification to a lower Classification with no reduction in pay if the Reclassification of the Employee's Position is due to reorganization or a Reduction in Force.

C. The pay of an Employee who voluntarily takes a Classification reduction may be reduced but never below the lowest pay for the Classification.

D. Pay of all Employees may be decreased uniformly and equitably for budgetary reasons or in the context of a Reduction in Force or Furlough upon the recommendation of the Executive Director and approval of the Board.

E. Affected Employees shall be given at least twenty-eight (28) Days' notice and such additional notice as may be required prior to any Reduction in Force.

F. In no case shall pay be reduced below the minimum rate for the Classification.

G. Pay decreases may be made to types of Employees, when deemed necessary by the Board due to budgetary constraints. Reductions in pay shall be implemented in such a manner as to reduce pay to Classified Employees as a last resort. In the event that the Board decreases pay by Employee types the pay decreases shall be imposed in the following order of priority:

1. Emergency.

2. Temporary.

3. Limited Term.

4. Classified Employees on Probationary status.

5. Exempt.

6. Classified

3.14 Performance Based Increases.

A. Performance increases shall not be granted on an automatic basis but shall be granted upon the demonstrated quality of an Employee's performance, subject to the availability of funding.

B. Exempt, Classified and limited term Employees whose performances are average or above average, may be granted a performance increase. Any limitations for such increases shall be approved by the Board, and shall be further limited by the pay permitted to the Classification. Periodic performance evaluations may be performed as needed. Management may in its discretion perform performance evaluations at any time but shall generally perform evaluations one (1) year from the most recent of:

1. Rehire or re-employment

2. Initial employment

3. Promotion.

C. Generally, performance increases shall only be considered annually. Any period of leave without pay in excess of thirty (30) Days shall not be credited as continuous service in calculation of this annual period. Service in emergency or limited term, or temporary status, when followed without a break in service by probationary employment to the same Classification, will be credited toward calculation of this annual period.

D. The Executive Director may authorize a pay increases within the Range permitted for a Classification as an incentive for the retention of exempt, Classified and limited term Employees who are offered employment outside of the District to retain them in their current positions. The following will be required:

1. The District must have satisfactory proof of an outside job offer.

2. Any pay increase shall be prospective, not retroactive and pay shall never be provided in advance of work performed.

3. Before receiving a pay increase for retention, an Employee must sign a written agreement to complete a specified period of service with the District.

E. The Executive Director may authorize a pay increases within the Range permitted for a Classification as an incentive for the retention of limited term "seasonal" Employees who return to work in subsequent seasons. The following will be required:

1. The District must be satisfied that the limited terms Employee's prior work was satisfactory and that the rehiring of the Employee is a benefit to the District because of the Employee knowledge and training regarding District operations.

2. Any pay increase shall be prospective, not retroactive and pay shall never be provided in advance of work performed.

3.15 Red Circle Rate.

Red Circle Rate refers to the rate of pay for an Employee whose pay rises above the current maximum pay for the Classification to which the Employee is assigned, reclassified or Transferred. Such Employee(s) shall be placed on a pay freeze for a period not to exceed two (2) years and shall not be eligible for any general adjustment (COLA) given during the same period of time. However, the Employee may be eligible for a performance increase based on a performance review which will be treated as a one-time award distribution and not added to the Employee's base pay.

During the two-year pay freeze period, if the Employee's rate of pay falls below the maximum within the pay Range, the freeze shall be lifted. If at the end of two years, the Employee's pay rate exceeds the maximum permitted for the Classification, that Employee's pay rate shall be reduced to the maximum for the Classification.

3.16 Overtime Compensation.

A. In order to meet the demands of work, Employees may be required to work in excess of the hours designated in their normal work week. Overtime Compensation will be paid to Employee, as indicated below, for actual hours worked. Supervisors are responsible for scheduling overtime in advance whenever possible and keeping overtime usage to a minimum consistent with the budget. However, the needs of the District and service to its constituents may dictate overtime usage and Supervisors are responsible for raising the budgetary needs and impacts of overtime usage with the Executive Director as early as possible to ensure a proper balance is struck between staying within budget and meeting District service needs.

B. Exempt Employees who work in excess of the normal work week (forty [40] hours), are not eligible for overtime pay. The basic Compensation of exempt Employees is based on the amount of work necessary to complete the assigned functions and is not based upon a set number of hours per work week. Time worked in excess of forty (40) hours per week is not eligible for Compensation during the course of employment or upon Termination. However, at the discretion of the Executive Director, exempt Employees may be granted Administrative Leave in consideration of their work efforts.

C. Overtime will normally be permitted or required when service demands present no other reasonable alternative. Because of the size of the District and the nature of the Districts business Supervisors and managers may require individual Employees to perform overtime work based upon their geographical location and access to District property and equipment.

However, when a Supervisor has determined that overtime work may be equitably distributed, Employees may be required to work a proportional share of the overtime assigned to the Employee's Classification or work unit. Refusal to accept an overtime assignment may result in Disciplinary Action.

D. Non-exempt Employees shall be compensated for overtime at one and one-half (1 1/2) times their hourly rate of pay unless otherwise specified in the Fair Labor Standards Act (FLSA). Non-exempt Employees shall be paid for overtime within the pay period that the overtime is worked unless the Employee elects to receive compensatory time in lieu of paid overtime. Such compensatory time shall be accrued at time and one-half.

E. The following hours are considered as hours worked for the purpose of qualifying for overtime pay at the rate of time and one-half.

1. Hours actually worked;
2. Paid holidays;
3. Hours allowed for voting time;
4. Jury duty;
5. Hours allowed for court duty when appearing as a witness on behalf of the District or because of an official capacity with the District; and
6. Training time.

F. The following are considered hours not worked and will not be counted toward overtime/comp-time eligibility. Excepting only the provisions above, an Employee must be physically at work more than forty (40) hours per week and cannot use the following time to obtain overtime/comp-time eligibility:

1. Vacation;
2. Sick leave;
3. Military leave;
4. Funeral leave;
5. Injury leave;
6. Lunch break;
7. Comp-time hours used.

G. Travel time may be work time when required by the District.

1. Travel from home to work and from work to home is not work time unless the travel is required by the District to an alternative work site that is not the Employees regular

work site. Any such paid travel time shall require prior approval by the Executive Director.

2. Time spent by an Employee in travel as part of his/her normal activities, such as travel from job site to job site during the Employee's regular working hours, or operation of a transit vehicle for public transit, is work time and must be recorded.

3. Travel performed outside of an Employee's normal work schedule as a result of assigned duties may constitute work time. The Human Resources Office must be consulted in advance to determine whether or not such travel time is work time.

3.17 Compensatory Time.

A. In some cases, compensatory time may be granted to Classified Employees in lieu of cash payment. Classified Employees may accrue and use up to forty (40) hours of compensatory time annually. In the last pay period of the fiscal year, all accrued but unused compensatory time shall be paid to the Employee at the Employee's then current regular rate of pay.

B. Classified Employees who separate from the District shall be compensated for all accrued compensatory time.

3.18 General Wage/Pay Adjustments.

It is the intent of the District to consider prevailing practices related to cost of living and market trends in establishing wages and salaries which constitute any formal Compensation plan. Any change in Compensation will ultimately be based upon the anticipated affect(s) upon the District budget. The Executive Director, based upon Board of Director's approval, will make final determinations of any changes regarding Compensation. If general, across-the-board, adjustments in Compensation are approved for District Employees, then the change will be effective on a date determined and approved by the Board of Directors. General adjustments in Compensation are separate and distinct from merit based adjustments to Compensation. General adjustments may affect the Compensation plan only, potentially shifting the pay of all Employees in relation to the midpoint without changing individual Compensation.

3.19 Cost-of-Living vs. Market.

Adjustments to any Compensation plan may be determined periodically through analysis of market trends in comparison to cost-of-living (COL). The District may utilize either market survey results or cost-of-living index data (federal) or a combination of both. If the District's Board approves an adjustment to a Compensation plan, all Employees, except those being red circled (frozen for having reached the top of their pay scale), shall receive the benefits of such general COL adjustments to the pay plan unless such Employees are represented by a union and such adjustments, if any, are governed by a collective bargaining agreement.

In determining the total Compensation value of the position, benefits and changes to overall costs of the District from Employer contributions must be considered. Base pay plus all employer cost of benefits constitutes total Compensation. In comparing benefit packages provided in the labor market, the District may evaluate both level and cost of benefits or other factors as deemed appropriate.

3.20 Pay Upon Separation from Employment.

When Employees are separated from employment with the District for any reason, they shall be required to return all District property and equipment and to resolve all financial obligations involving their employment with the District. Any such obligation not resolved prior to separation may be itemized and deducted from their final paycheck as contested amounts which the District claims to the extent that the deduction is legally authorized and not in violation of minimum wage requirements. The Employee's final paycheck, including Compensation for all uncompensated hours worked, unused annual leave and overtime not disputed by the District, will be issued on the next regularly scheduled pay period following Termination or within 10 Days of separation from employment whichever is sooner. Claims for disputed amounts must be timely filed by the Employee with the District following issuance of the final paycheck.

3.21 Pay Advancement.

It is illegal for the District to make pay advances to Employees and no such advances shall be authorized or made. Furthermore, the District may not pay employer's share of any paycheck deduction in a manner that would constitute an extension of credit in violation of the New Mexico State Constitution. Employees who have expended all leave and not returned to work may be required to tender the full amount of any premium or contribution due for continued participation in Employee benefits pending their return to work. Nothing herein shall be deemed to require the District to continue to employ an Employee or hold open a Position for an Employee who has not returned to work.

3.22 Standby Pay and Callout Pay.

The Executive Director is authorized to establish administrative regulation regarding standby pay and callout pay for Employees required to be available at times not outside the regular work schedule or any such time as the District requires the Employee to be available. However, nothing herein shall authorize any pay that would be in violation of the District Compensation and Classification Plan, any Collective Bargaining Agreement or federal and state laws.

3.23 Out of Classification/Temporary Assignment Pay.

The Executive Director is authorized to establish administrative regulations regarding Employees who are assigned additional duties and responsibilities of a different job or Classification in addition to their regular job duties. The Executive Director is authorized to increase and Employee's pay by up to ten percent (10%) on a temporary basis for out of classification/temporary assignments. The Executive Director shall provide any Employee assigned such additional duties a written statement outlining the specific additional job duties or tasks the Employee is responsible for and explaining that any increase of pay under this rule is for the additional job duties and shall only be paid for so long as the Employee performs the additional job duties. Nothing herein is intended to allow or require any District Employee to perform job duties that they are not qualified to perform. Employees should also be advised that out of Classification pay is expressly authorized in instances where an Employee is qualified to perform some but not all job duties of another job and that the temporary assignment of partial duties does not indicate that the Employee is qualified to perform all the job duties.

RULE 4 – EMPLOYEE WORK WEEK, HOURS AND LEAVE

4.1 Work Week.

A. The Work Week for full-time Employees shall consist of forty (40) hours in a Seven-Day period. The standard Work Week commences at 12:01 a.m. every Saturday and ends at 12:00 p.m. on Friday. However, the Executive Director has the authority to vary the Work Week if the efficient operation of the District so requires. There are two Work Weeks in a pay period.

B. The District may impose a work schedule for each particular positions altering the specific hour of work for the Position to meet District needs. Work schedules may require any combination of hours within a Work Week deemed necessary for District operations including but not limited to split shifts, scheduled work on weekends or holidays, scheduled work in early morning and late evening hours, and scheduled work consistent with routes bid under any current CBA. Failure to follow any District work schedule may be grounds for Disciplinary Action.

C. Hours worked within a Work Week shall be tabulated by including all hours actually worked by an Employee as contributing toward the forty (40) hour Work Week and only permitting or requiring the use of leave or the payment of overtime when actual hours worked exceed or fall short of the 40 hours required for a Work Week.

4.2 Work Day.

The Work Day shall be determined by the Executive Director to best meet the needs of the organization and the work Day may vary by Position depending upon the operational needs of the District.

4.3 Work Hours

A. Full-time District Employees have a regular Work Week of forty (40) hours. All Exempt Employees and any Classified Employee who performs administrative support work for the District shall generally be required to work from 8:00 A.M. to 5:00 P.M. Monday through Friday unless an alternative schedule is approved for the specific position.

B. Normal work hours for Classified Employees who do not perform administrative support work shall be set by the Supervisor, with the approval of the Executive Director. Consideration should be given to shift requirements, seasonal conditions, special service needs and other activities necessary to provide a continuity of public service. Occasionally, it may become necessary to deviate from the normal work hours due to changing District requirements, availability of properly trained and licensed Employees and unforeseen events and conditions. It is the responsibility of Supervisors to prescribe work hours in such cases.

C. Lunch Breaks shall be set by Supervisors with the approval of the Executive Director generally a one-hour lunch break shall be provided to all Classified Employees; however, work schedules and other job-related functions may necessitate variations in the scheduling of the lunch break.

D. Relief periods are permitted for the purposes of breaking up a continuous period of work to improve the well-being and performance of Employees. Relief periods may be granted as time permits but should be limited to fifteen (15) minutes, once in the first half of the work shift and once in the second half. Employees shall not combine two (2) relief periods into one, nor shall they be allowed to combine a relief period with a lunch break. Relief periods shall not be used

or skipped in a manner that permits Employees to start or leave their work early. Employees are not permitted to leave the work site during a relief period. Employees may be permitted to have family members or acquaintances at the work site during a relief period break if authorized in advance by their Supervisor. Nothing herein shall be deemed to limit the Districts ability to provide reasonable accommodations to Employees as the District deems appropriate and in compliance with all relevant laws including but not limited to the Americans with Disabilities Act. Relief periods are considered hours worked; lunch breaks are considered hours not worked. Supervisors shall not permit Classified Employees to forego their lunch break or continue working while having lunch or allow any similar changes to the work schedule that would permit or require accumulation of uncompensated overtime. Lunch breaks shall not be eliminated or shortened so that Employees can alter their regular schedule in any way unless previously approved by the Employee's Supervisor and the Executive Director.

4.4 Other Employment While on Duty for the District.

No Employee shall engage in any other employment or self-employment, during the hours the Employee is scheduled to work for the District. Violation of this Rule may be grounds for Disciplinary Action.

4.5 Outside Employment.

A. It is anticipated that employment with the District will be the Employee's primary duty and all Employees are required to ensure that any other employment does not interfere with their ability to fully and professionally perform their duties as District Employees. All Employees engaging in employment other than with the District must have prior District approval.

B. To assure no conflicts exists between District employment and outside employment (including but not limited to conflicts of interest, schedule conflicts or travel conflicts) Employees who engage in employment in addition to their District employment are required to obtain written approval on a prescribed form from the Executive Director.

C. Before an Employee may work for any other organization or engage in business for himself/herself, approval of the Executive Director is necessary to determine that:

1. Neither the Employee nor his/her subordinates shall conduct any business connected with the Employee's outside employment while on duty.

2. There is no conflict between the Employee's official duties with the District and the proposed outside employment.

3. The Employee is serving the District satisfactorily and will be able to do so if he/she undertakes outside employment.

D. Approval authorizes outside employment for a period of one (1) year from the time of approval. The Employee must re-apply on a prescribed form for continued approval annually so long as Employee wishes to continue outside employment.

E. Authorization to engage in outside employment shall be suspended during periods of sick or Disability leave.

4.6 Holidays and Holiday Pay

A. The holiday schedule listed herein is the official holiday schedule.

The following holidays shall be observed as paid holidays:

January 1	New Year's Day
January	Martin Luther King Day
May	Memorial Day
July 4	Independence Day
September	Labor Day
October	Columbus Day
November	Veteran's Day
November	Thanksgiving
November	Day after Thanksgiving
December 24	Christmas Eve
December 25	Christmas Day

B. All Classified, Exempt or Limited-Term Employees shall be paid for holidays listed herein at the Employee's straight time hourly rate. Holiday pay is based on eight (8) hours of pay for full-time Employees and prorated hours for part-time regular Employees. An Employee whose work day is in excess of eight hours will be required to utilize compensatory time or annual leave for any absence in excess of eight hours on the day that the holiday is observed unless the required use of leave is prohibited in a CBA or by law.

C. All Classified Employees who are required to work a holiday shall be compensated at the rate of two (2) times their hourly rate for all hours worked.

D. Whenever a legal public holiday falls on a Saturday, it will be observed on the preceding Friday and whenever a legal public holiday falls on a Sunday, it will be observed on the following Monday. Should an Employee be on an authorized Leave with Pay when a holiday occurs, the holiday shall be paid and not charged against sick or vacation leave.

E. Employees whose scheduled day off falls on the observed holiday shall be given 8 hours of annual leave or compensatory time. In order to be eligible for holiday pay the Employee must be in approved paid status on both the regular scheduled Workday immediately preceding the holiday and the regular scheduled Workday immediately following the holiday. Approved pay status is defined as any compensable time such as time spent at work, as well as approved vacation, approved sick leave and holidays. Employees will not receive holiday pay for an unpaid or unapproved absence(s) or unapproved sick leave usage (unless the sick leave is from a proven illness) on the regular scheduled Workday immediately preceding the holiday and the regular scheduled Workday immediately following the holiday.

4.7 Approval of Leave.

A. All requests for leaves of absence, with or without pay, shall be made to the immediate Supervisor for approval on forms prescribed by the Executive Director.

B. All requests for leave shall be submitted in advance of the beginning date of the leave, (except requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time), and the duration and kind of leaves shall be recorded on the payroll. Supervisors

are responsible for providing sufficient advance notice of any Employee leave to ensure that the approval of leave by the Executive Director shall be made at a time and in a manner that permits consideration of District needs prior to the Employee's absence from work.

C. The Executive Director or (in the case of the Executive Director's leave the Chair of the NCRTD Board) shall regulate annual leave usage by requiring the scheduling and preapproval of leave in order to ensure proper operation of the District. In no circumstances shall an entire Department be permitted to take annual leave at the same time. Supervisors shall be responsible for scheduling annual leave and seeking pre-approval of leave so as to avoid unreasonable interference with District operations. Each Employee is responsible for monitoring his/her leave balances and ensuring that he/she schedules leave in a manner that will avoid unreasonable interference with District operations and the loss or conversion of leave.

D. Paid leaves of absence are subject to the Employee's accrued leave balance and the scheduling requirements of the Department Manager.

E. All requests for leave without pay are subject to the rules set forth below.

4.8 Accrual and Use of Annual Leave.

A. Annual leave is accrued in accordance with the schedule below. Part-time Employees accrue a pro-rated amount of Annual Leave based on their base budgeted hours. Temporary Employees do not accrue Annual Leave. Periods of leave without pay shall not count for the purpose of accumulation of annual leave. Employees may accumulate annual leave, but only a limited amount may be carried forward from year to year based on the schedule below. All hours of annual leave that may not be carried forward by the end of last pay period in the calendar year will be credited to the Employee's sick leave balance on the first pay period of following calendar year.

Annual Leave Accrual Schedule

Months	Length of Service	Annual Leave Hours/days	Hours Accrued (based on 80 hours worked per pay period)	Maximum Accumulation[2] (current Employees)	Maximum Accumulation [3] (new Employees)
0 – 48	0 thru 4 years	80 hours/10 days	3.077 hours	2 times annual accrual	240 hours
49 – 108	5 thru 9 years	120 hours/15 days	4.62 hours	2 times annual accrual	240 hours
109 -299	9 thru 24 years	160 hours/20 days	6.15 hours	2 times annual accrual	240 hours

Based on an employee's length of service, employees may accumulate and carry over into the first pay period of the calendar year accrued and unused vacation, not to exceed two (2) times the annual maximum accrual.

All employees hired after the effective date of adoption of these revised Rules may accumulate and carry over into the following year accrued and unused vacation not to exceed 240-hours subject to the provisions in section 4.9.

300 +	25 years or more	200 hours/25 days	7.69 hours	2 times annual accrual	240 hours

B. Annual leave shall be taken for the actual number of hours absent from a normal work week and in increments of not less than1/4 hour increments.

C. Upon Termination of employment an Employee shall be paid for any annual leave which has been accrued but not taken.

D. The preceding rules apply to accruals of leave unless there is a written agreement by the District to the contrary in which case the contract rate shall apply.

E. The preceding caps on accumulated leave may be altered if an Employee participates in the District sick leave incentive program and transfers sick leave to annual leave. At the time of such transfer and thereafter for the term of any employment with the District the Employees annual leave cap shall be altered to allow for the higher cap permitted under these Rules.

4.9 Family Medical Leave Act, (FMLA).

A. Eligible Employees are entitled to Family Medical Leave (FML) in accordance with the FMLA.

B. Employees who have been employed by the District for a total of at least twelve (12) months and who have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of any period of proposed FMLA leave are eligible Employees. During any period of unpaid leave, Employees must continue to pay the Employee's share of health insurance premiums.

C. Eligible Employees are entitled to a total of twelve (12) work weeks of FMLA leave during a rolling 12-month period measured backward from the date on which the Employee last used any FML for:

1. Birth of a child of the Employee and care for the newborn child.

2. Placement of a child with the Employee by way of adoption or foster care.

3. Care for the spouse, child, parent or one who stood in place of a parent of the Employee, if that person has a serious health condition.

4. A serious health condition that renders the Employee unable to perform any of the Essential Functions of the Employee's position; or

5. Any qualifying exigency when the Employee's spouse, child or parent is on active duty or is notified of an impending call or order to active duty in the Armed Forces (including the Reserves and National Guard) in support of a "contingency operation."

6. Any other qualifying event as established by the FMLA.

D. Military Caregiver Leave Entitlement. Eligible Employees are entitled to a total of 26 work weeks in a single 12-month period per-covered service member, per-injury, measured forward from the date the Employee's leave begins, to care for a spouse, child, parent, or next of kin

who is a service member undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness.

E. Employees are required to use all available paid leave concurrently with FMLA leave.

F. Employees shall not accrue annual and sick leave, nor be paid for holidays while on unpaid FMLA leave.

G. All medical records and correspondence relating to the Employee and/or their family's medical conditions shall be confidential and shall be protected from disclosure to the maximum extent permitted by law. However, the District reserves the right to demand, examine and retain such medical records as are necessary to ensure proper use of FMLA leave.

H. These Rules expressly authorize the District to adopt implementing policies for the administration of the FMLA and procedures for FMLA monitoring and use of FMLA leave.

I. The District shall require medical clearances to the extent and in the manner permitted by law as a precondition for return to work following the use of FMLA leave.

4.10 Sick Leave General Provisions.

Sick leave is provided as a benefit to prevent or minimize an Employee's loss of income during time lost due to personal and family illness or injury. Supervisors are responsible for controlling excessive absenteeism and abuse of sick leave by Employees under their supervision. Employees are expected to utilize sick leave responsibly and should minimize their sick leave usage where possible.

A. Sick leave shall be taken for the actual number of hours absent from the office, and in increments of not less than one hour. All sick leave shall be accounted for by reporting its use on the approved forms upon returning to work. The Executive Director or their designee shall be authorized to approve all sick leave. The Chair of the NCRTD Board shall be authorized to approve all sick leave for the Executive Director.

B. Sick leave may be used for any period of approved absence with pay from regularly scheduled work resulting from an:

1. Employee having an illness or injury which renders him/her unable to perform his/her duties;

2. an Employee having a medical examination, consultation, or treatment by a licensed practitioner; or

3. an Employee's Immediate Family Member as defined by the FMLA, requiring his/her presence because of injury, illness or medical treatment.

4.11 Accrual Rates for Sick Leave.

A. Sick leave for full time Employees shall be accrued at the rate of 3.077 hours per two-week pay period (80 hours per year) to a maximum of seven-hundred twenty (720) hours.

B. Sick leave may only be taken in the event of illness of the Employee, or the Employee's Immediate Family. The District may require the Employee to furnish a written medical statement issued by a licensed physician or practitioner, or other evidence of illness that confirms the illness of the Employee or their Immediate Family member, provides an estimate of when the Employee will be able to return to work, sates whether the Employees incapacity will require intermittent treatments, states the estimated frequency and duration of such treatments, and provides the estimated period for recovery, if known. If the Employee's leave qualifies as protected leave under the FMLA, the District may require a medical certification as provided by federal law.

4.12 Sick Leave Incentive Transfer/Sell Back Program.

A. The following provisions shall apply to non-represented Employees who are not already covered under the Collective Bargaining Agreement's comparable program. The intent is to give non-represented Employees an additional incentive to make judicious use of sick leave.

B. Annually, 15 days prior to the first pay period in December, Employees who meet the criteria described below may elect to participate in the sick leave transfer/sellback program by completing the applicable forms.

C. All Employees who are separated from the District payroll before one (1) year of employment shall not be eligible to transfer/sell back unused sick leave hours under this program.

D. Employees who have accumulated sick leave in excess of 80 hours are eligible to annually transfer to their vacation leave balance or to sell back up to 80 hours of sick leave per year at the value listed below. Employees who utilize the annual sick leave transfer/sell back program must maintain a sick leave balance of 80 hours after transferring or selling any hours.

E. Those Employees who participate in this program and transfer a minimum of 40 hours of sick leave annually will have their maximum vacation accumulation cap changed from the standard (two times annual accumulated leave) to three times the annual accumulation.

F. Employees utilizing the sell back of sick leave (rather than conversion to annual leave) for a calendar year will not be eligible to have their maximum vacation accumulation changed.

The percentage value at which sick leave maybe transferred to vacation leave or sold back is based upon the following:

Number of Sick Leave Hours Used Annually (calendar year)	Percentage Transfer/Sell Back Rate
24 hours or less	100%
25 – 32 hours	75%
33 – 40 hours	50%
41 hours or more	25%

G. The preceding rules apply to accruals of leave unless there is a written agreement by the District to the contrary in which case the contract rate shall apply.

4.13 Misuse of Sick Leave.

Misuse of sick leave by an Employee affects the efficiency and productivity of other Employees in the workgroup, especially those who seek assistance, advice, or guidance from an absent Employee. Therefore, misuse of sick leave shall be cause for Disciplinary Action.

"Misuse" is considered the use of sick leave for that which it was not intended or provided. Examples of "misuse" may include, but are not limited to, the following:

1. Patterned sick leave usage before and/or after holidays.
2. Patterned period of sick leave usage before and/or after weekends or regular days off;
3. Patterned period of sick leave usage after pay days;
4. Absence following overtime worked;
5. Continued pattern of maintaining zero or near zero leave balances; and/or
6. Excessive absenteeism – the use of more sick leave than is granted.

Leave required by federal or state law such as Family and Medical Leave and Workers' Compensation shall not be considered when determining whether or not there is misuse of sick leave.

If a Supervisor believes that an Employee is misusing sick leave, the Supervisor has the discretion to require a suitable explanation or documentation to determine whether the sick leave was used in accordance with this policy.

4.14 No Payment for Sick Leave upon Termination.

Upon Termination of employment with the NCRTD, an Employee shall not be paid for sick leave that has been accrued but not used.

4.15 Reporting Sick Leave.

Sick leave must be reported to the Executive Director, or the Employee's immediate Supervisor, at a minimum, two hours in advance of the Employee's start of their work day. Failure to report their absence at a minimum of two hours prior to the start of their work day may result in the Employee's leave being unapproved by the Executive Director or their Supervisor.

4.16 Exhaustion of Sick Leave and Absence without Leave.

If an Employee has exhausted earned sick leave, and requests additional time off the Executive Director may either elect to reduce balances on any other leave such as vacation or compensatory leave or proceed with appropriate action under these rules in the event the Employee fails to report for work as required.

4.17 Reporting Potential FMLA Eligible Leave.

Supervisors should refer to the Family and Medical Leave policy regarding an Employee's absence from an injury, illness or temporary Disability. If an Employee's absence is anticipated to be more than three (3) Days, or once the Employee exceeds three (3) Days of absence, due to either their own illness/injury or to their family member's illness/injury, the absence should be reported to Human Resources.

4.18 Reporting Return to Work Prior to Leave Expiration.

Employees not planning to return to work following an extended sick leave must Notify their Supervisor or the Human Resources Office prior to the expiration of the leave (as defined by the physician's statement). An Employee who does not return to work within the time frame specified by a physician may be subject to Disciplinary Action.

4.19 Leave Without Pay.

A. The District may grant leave without pay (LWOP) either when required to do so by law or when, in the District's sole discretion, it determines that the following criteria are met:

1. The Employee has exhausted all applicable accrued leave and compensatory time;
2. The Employee has demonstrated a clear and reasonable basis for taking leave;
3. The District will not suffer undue hardship by holding open the Employee's current Position or is reasonably certain it will have a Position of like status and pay available at the same work location upon the return of the Employee from LWOP.
4. The leave period will not exceed thirty (30) consecutive calendar days (in the case of probationary Employees) or six (6) consecutive months (in the case of Classified Employees.

B. Employees shall not accrue sick or annual leave while on LWOP.

C. Employees are not eligible for paid holidays while on LWOP.

D. Employees who desire to continue insurance and other benefits provided by the District while on LWOP, must make advance arrangements to pay the Employees share of monthly group insurance premiums for the covered Employee and any covered dependents. Where the LWOP is granted on a discretionary basis (non-FMLA leave) the Employee share of all Employee benefits provided by the District shall be the full cost of the benefits. Failure to pay insurance premiums or other costs of benefits may result in cancellation of coverage. Payment will be due on the first day of the month but shall have a 30-calendar day grace period before the payment is deemed overdue and the District cancels or suspends the benefit program.

E. LWOP shall be recorded by the District on a Personnel Action Form.

F. Failure to report to work upon the expiration of approved LWOP may be grounds for Disciplinary Action up to and including Termination.

G. Return from leave without pay shall be recorded by the District on will be reported on a Personnel Action Form.

H. The Executive Director is granted the maximum discretion permitted by law to implement the provisions of these Rules regarding LWOP as he or she deems necessary and appropriate for the efficient administration of the District.

4.20 Absence without Leave or Authorization.

A. Employees who fail to appear at work without authorized leave may be considered to be absent without leave. Unauthorized absence may be grounds for Disciplinary Action up to and including Termination.

B. An Employee who is absent from work without authorized leave for three Days may be deemed by the Executive Director to have abandoned their job and voluntarily terminated their employment.

C. Employees who fail to obtain prior approval of leave where such prior approval is practicable may be subject to Disciplinary Action.

4.21 Administrative Leave.

The Executive Director may authorize paid Administrative Leave if there are exceptional circumstances and the Executive Director determines that granting paid Administrative Leave is in the best interests of the District. Paid Administrative Leave shall generally not exceed five (5) consecutive Days. The Executive Director may grant additional Administrative Leave when deemed necessary and in the best interest of the District but shall promptly report any such extended Administrative Leave to the Board Chair along with an explanation of the bases for the leave. Nothing herein shall be deemed to require the Executive Director to grant Administrative Leave when requested or to limit the Executive Director's authority to place Employees on Administrative Leave where such action is permitted under these Rules or the law.

4.22 Voting Leave.

In accordance with the provision of NMSA 1978, Section 1-12-42 Employees who are registered voters may absent themselves from work for up to two (2) hours for the purpose of voting between the opening and closing times of the polls.

A. District management may specify the hours during this period in which the Employee may be absent.

B. These provisions do not apply to any Employee whose Work Day begins more than two (2) hours after the opening of the polls, or ends more than three (3) hours prior to the closing of the polls.

C. An Employee who abuses voting leave by using it for purposes other than traveling to and from the polling place and voting may be charged with Leave Without Pay and subject to Disciplinary Action.

D. The Executive Director shall promulgate such administrative policy as he/she deems necessary for the implementation and enforcement of this Rule regarding Voting Leave.

4.23 Court, Litigation or Jury Leave.

A. General Litigation. When, Employees are absent from work for a job-related reason involving litigation by the Employee or the District (including testimony by Employees at criminal proceedings arising from work or work related functions where the Employee is not a defendant) or regulatory proceedings, by or on behalf of the District, the Employee shall be entitled to leave with pay for the required period. Litigation and regulatory proceedings shall include any depositions, required hearings and any related proceedings where attendance is either required by law or in the best interest of the District. Fees received as a witness, or for appearance, excluding reimbursement for travel and meals, shall generally be remitted to the District unless the Employee elects to take annual leave.

B. Jury Service. An Employee shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees received as a juror, excluding reimbursement for travel, shall be remitted to the District.

C. Compulsory Hearings or Testimony. Employees required to attend court on District matters shall receive wages for up to their regularly scheduled hours. Paid leave shall be granted for all time spent in court, hearings, regulatory proceedings and related proceedings such as depositions and shall include net travel time, (actual travel time less the Employee's regular commute). Employees must submit any witness or appearance fees received, however they shall retain any travel expense reimbursements received.

D. Release from Jury Duty. An Employee who is released from jury duty shall report to work upon release or contact their Supervisor if it would not be feasible to return to work. Failure to adhere to this provision will be considered unauthorized absence and may result in Disciplinary Action.

E. At the Employee's option, the hours of leave provided under this rule may be taken as annual leave, provided that the Employee has enough annual leave available. The Employee under this circumstance may keep any Compensation received from third parties for attendance at the proceeding.

F. Those Employees who become involved in personal litigation or who testify or appear in non-District matters or are named as criminal defendants are not eligible for leave with pay, but may use accumulated annual leave subject to the conditions set forth in these Rules.or the Collective Bargaining Agreement.

4.24 Military Leave.

The District shall provide such military leave as may be required by pertinent laws of the State of New Mexico and the United States of America for any District Employee in the military service who is duly qualified for said leave.

4.25 Bereavement Leave.

A. In the event of the death of an Employee's Extended Family member, the District may grant up to three (3) Days of bereavement leave for the Employee to attend to the funeral arrangement and services. An additional leave of two (2) Workdays may be allowed for necessary funeral travel time when approved by the Executive Director. Workdays are defined as the Employee's

regular daily work schedule. Use of sick leave may be authorized in addition to bereavement leave when deemed appropriate by the Executive Director.

B. The District, in its discretion, may require some proof that a death in the family has occurred.

4.26 Domestic Abuse Leave

District Employees shall be permitted to take up to 14 Days of unpaid leave per year as Domestic Abuse leave pursuant to NMSA 1978, Section 50 -4A-1 et seq. The District may require that:

A. When Domestic Abuse leave is taken in an emergency, the Employee or the Employee's designee shall give notice to the District within twenty-four hours of commencing the Domestic Abuse leave.

B. The District may require verification of the need for Domestic Abuse leave, and, if so, an Employee shall provide one of the following forms of verification through furnishing in a timely fashion:

1. a police report indicating that the Employee or a family member was a victim of Domestic Abuse;

2. a copy of an order of protection or other court evidence produced in connection with an incident of Domestic Abuse, but the document does not constitute a waiver of confidentiality or privilege between the Employee and the Employee's advocate or attorney; or

3. the written statement of an attorney representing the Employee, a district attorney's victim advocate, a law enforcement official or a prosecuting attorney that the Employee or Employee's family member appeared or is scheduled to appear in court in connection with an incident of Domestic Abuse.

4.27 Paid Administrative Leave for Inclement Weather.

A. Full-Day Closing – The District in its sole discretion my elect to grant Administrative Leave due to inclement weather. Weather-related paid Administrative Leave shall be limited to an amount equal to the hours that the Employee was scheduled to work and was unable to work or requested or permitted not to work due to the inclement weather. No paid Administrative Leave shall be granted in consideration of hours worked, hours already approved for leave, or for hours that the Employee was not scheduled to work.

B. Partial-Day Closing (delayed opening/early closing) - In the event that normal reporting time is delayed by the District due to inclement weather, Employees scheduled and available to work that day (not Employees with previously approved leave) may be granted paid Administrative Leave for the period between their normal scheduled reporting time and the rescheduled reporting time. In the event of an early closing time, those Employees actually working that day will receive paid time between the rescheduled closing time and their scheduled or normal closing time.

C. Prior Leave Requests - Employees who have sought or obtained any form of leave, or in the case of non-leave earning Employees, have called to advise that they will not be reporting to

work, are not be eligible for paid Administrative Leave under this rule or for a refund of leave balances.

4.28 Critical Incident Leave.

The Executive Director is authorized to allow usage of annual leave, sick leave or compensatory time for Employees who are involved in critical incidents including but not limited to assaults or threats while on the job resulting in anxiety that may impair their ability to work effectively. A critical incident occurs when an Employee is directly involved in on-duty violence or threats of violence. The leave is granted to allow the Employee to recover from the adverse physical or psychological impacts of the incident. The Employee shall be authorized to elect which type of leave to use. Where an Employee is receiving Compensation from worker's Compensation or other victim Compensation relief programs the leave shall be authorized only to the extent that the Employees pay plus other Compensation does not exceed his or her regular pay. If more than one day of leave is required by the Employee's physician or mental health practitioner, then the District may require the Employee be examined by a medical practitioner of the District's choosing to give an independent assessment of the need for any additional leave.

RULE 5- NON-DISCIPLINARY SEPARATION FROM EMPLOYMENT AND RETURN TO WORK

5.1 Layoff - Reduction in Force (RIF).

A. The tenure for all classified Employees in the District shall be continuous provided that they are not separated from employment pursuant to these Rules. However, this provision shall not be interpreted to prevent the layoff of Employees by the District because of lack of funds or curtailment of work, when made in accordance with these Rules.

B. The Executive Director may propose to lay-off Employees through a RIF only for shortage of work or funds, or other legitimate governmental reasons that do not reflect discredit on the services of the Employees. The decision to lay-off Employees using a RIF shall be made by the Board. All other separations from employment shall follow the pertinent.

C. Nothing in this rule shall limit the ability, prerogative or necessity of the Board to direct the Executive Director to conduct a reduction-in-force for any and all positions and any and all Departments.

D. In the event that the Board determines that the District should lay-off Employees through a RIF, the Executive Director shall identify organizational units and submit a written RIF plan to the Board for approval. Such organizational units may be recognized on the basis of function, funding source or other factors.

E. The Executive Director shall define the Classifications that will be affected within the organizational units and shall provide a rationale for recommendations made in the RIF plan. Prior to submitting the RIF plan to the Board for approval, any Employee objecting to the RIF plan or to a layoff that would separate them from employment shall be given notice of their right to a pre-RIF hearing and may request to meet with the Executive Director and shall be allowed to present any arguments or information they have at the pre-RIF hearing.

F. All Employees objecting to the RIF plan or who may be laid off shall be provided with notice of any Board meeting at which a RIF plan is proposed for adoption and shall be given the opportunity to be heard at the Board meeting.

G. Upon approval by the District Board of a layoff plan, the Executive Director shall initiate layoffs according to the RIF Plan approved by the Board. The order of layoffs shall be according to the RIF plan. Any Employee laid off pursuant to a RIF plan shall be given fourteen (14) calendar Days prior written notice of the separation from employment.

H. Right of first refusal within the District. All Employees affected by the lay-off shall be provided the following opportunities for re-employment by the District following a layoff:

1. Employees to be affected by the Reduction in Force (RIF) shall be provided the right of first refusal to any Position to be filled within the District for which the Employee meets the minimum qualifications, at the same or lower pay Range of the Position the Employee currently holds, unless there is an actual layoff candidate from an earlier layoff exercising reemployment rights for the position;

2. Affected Employees shall compete only with other Employees affected by the Reduction in Force for positions subject to the right of first refusal;

3. The District's list of eligible Candidates for open positions subject to the right of first refusal shall be comprised of those affected Employees meeting the minimum qualifications of the position;

4. The selection of Employees from the list of eligible Candidates shall be based on the RIF plan and these Rules.

5. Employees shall have ten (10) Days from the date of an offer to accept the Position unless another time period is mutually agreed upon.

6. Employees who do not accept an offer shall not lose the right of first refusal to other positions but shall be removed from the list of eligibles for the Position offered. A laid-off Employee may refuse one right of first refusal offer. A second refusal of a right of first refusal offer will serve as a voluntary resignation and the District will have no further employment obligations to the laid off Employee.

7. After six (6) consecutive months of layoff status, the District shall have no further right of first refusal or employment obligation to the laid-off Employee.

5.2 Return from Reduction in Force.

A. Former Employees who were in classified status at the time of separation by a Reduction in Force and who are granted a right of first refusal under the previous Rule shall return to work as follows:

1. The sequence and timing of return to work shall be according to the RIF plan;

2. Offers of employment shall be made in writing and shall be delivered by a method that provides proof of service or attempted service;

3. A former Employee who is offered and accepts employment after lay off shall occupy the Position within fourteen (14) Days of accepting the offer of employment or forfeit the right of first refusal and have no further right of first refusal.

B. Former Employees returned to work according to the provisions of this section shall have that period of time they were laid off counted as time in the service for District (non-PERA) purposes, and do not have to serve a new Probationary Period if re-employed into permanent status.

5.3 Furlough-Reduced work schedule.

A. In the event of the need for a Furlough, the Executive Director shall submit a plan identifying organizational units to be affected by the Furlough to the Board for approval to begin the Furlough.

B. The Furlough plan shall reduce the hours of employment for all Employees within the organizational unit impacted proportionate to their regular work hours wherever possible. However, nothing in these Rules shall be interpreted as requiring the District to reduce hours in a manner that would impair District operations. Hours may be reduced on the basis of reduced operations, routes and services if such reduction is authorized by the Board approval of a Furlough plan.

C. No Furlough shall exceed twelve (12) months.

D. Employees shall be given at least fourteen (14) Days written notice of a Furlough that reduces their hours.

E. Employees shall be returned from Furlough when the reasons for the Furlough cease to exist. Any restoration of work hours for Furloughed Employees shall be allocated across all Employees within the organizational unit impacted proportionate to their regular work hours.

5.4 Employee Medical Separation.

A. Employees who have suffered work related injury and cannot perform the Essential Functions of their Position may be placed modified duty as deemed necessary by the District and where such modified duty work is available.

B. Employees who have suffered a job-related injury which is compensable under the Workers' Compensation Act and are physically or mentally unable to perform the Essential Functions of their pre-injury position, with or without reasonable accommodation, (to the extent required by the Americans with Disabilities Act) shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. the Employee has been afforded modified duty to the extent the work is available and possible;

2. all efforts to accommodate the medical restrictions of the Employee have been made and documented; and

3. the District has made reasonable efforts to find other suitable vacant positions at the same or lower pay of the pre-injury/pre-illness Position for which the Employee meets the

established requirements and can perform the Essential Functions of the job, either with or without reasonable accommodation, or

4. The Employee has exhausted all paid leave and FMLA leave, and

C. A former Employee who has separated from employment due to job-related injury and who has received or is due to receive benefits under the Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law shall have reemployment rights in accordance with the provisions of Section NMSA 1978, 52-1-50.1 or 52-3-49.1. A former Employee may apply for his or her pre-injury job or modified job similar to the pre-injury job, or any job that pays less than the pre-injury job that the worker is qualified for subject to the following conditions:

1. the worker's treating health care provider certifies that the worker is fit to carry out the pre-injury job or modified work similar to the pre-injury job without significant risk of re-injury; and

2. the employer has the pre-injury job or modified work available.

D. Employees who have suffered a non-job-related injury or illness and are permanently unable to perform the Essential Functions of their pre-injury/pre-illness Position with or without reasonable accommodation, (to the extent required by the Americans with Disabilities Act), as a result of the physical or mental Disability created by the non-job-related injury or illness shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. The District has made reasonable efforts to find other suitable vacant positions within the District for which the Employee meets the established requirements and can perform the Essential Functions of the job, either with or without a reasonable accommodation (to the extent required by the Americans with Disabilities Act); and

2. The Employee has exhausted all paid leave and FMLA leave.

E. Notice of Contemplated Medical Separation. To initiate the involuntary medical separation of an Employee, the Supervisor shall serve a notice of contemplated medical separation to the Employee which:

1. describes the circumstances that form the basis for the contemplated separation;

2. gives a general explanation of the evidence the District has;

3. advises the Employee of his or her right to inspect and obtain copies of any documentary evidence relied upon;

4. specifies what the contemplated action is; and

5. states that the Employee has fifteen (15) calendar Days from the service of the notice to respond in writing to the notice or to request an opportunity for an oral response.

F. Response to Notice of Contemplated Medical Separation:

1. If there is a request for an oral response to the notice of contemplated separation, the Supervisor, or designee, shall meet with the Employee within ten (10) Days of a request for an oral response, unless the Employee and Supervisor, or designee, agree to an extension of time.

2. The purpose of the oral response is an opportunity for the Employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to support the proposed involuntary separation.

G. Notice of Final Medical Separation:

1. If the Employee does not respond to the notice of contemplated separation, the Executive Director shall issue a notice of final separation within ten (10) Days following the response period.

2. If the Employee has filed a written response or has been provided an opportunity for oral response, the Supervisor shall provide recommendations to the Executive Director no later than ten (10) Days from the date of the receipt of the response or the date of the oral response. The Executive Director shall render a written decision on the notice of final separation no later than ten (10) Days from the date of the receipt of the Supervisor's recommendation.

3. The written decision and the notice of final separation shall:

   a. Specify the action to be taken;

   b. Describe the circumstances which form the basis for the involuntary medical separation;

   c. Give a general explanation of the evidence;

   d. Specify when the final separation will be effective; and

   e. Inform the Employee that the final separation may be appealed to an independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) Days of the effective date of the separation. The appeal must specify the basis for the appeal.

H. Appeal of Final Medical Separation:

Appeals of the Executive Director's decisions may be made pursuant to the provisions of these Rules regarding Appeals.

RULE 6 - DISCIPLINARY ACTIONS

6.1 Oral and Written Reprimands

A. Supervisors may reprimand an Employee for Just Cause whenever they violate these Rules, or the law. Oral Reprimands shall be documented on a form prescribed by the Executive Director. Written Reprimands may be issued for Just Cause by the Executive Director with or without a

recommendation of the direct Supervisor. Oral and Written Reprimands may not be administratively appealed but the Employee may respond to the Oral or Written Reprimand and may require that a record of the response be included in the Employee's personnel file.

B. If after six (6) months of continuous employment (excluding all leave) from the effective date of an Oral Reprimand the Employee has:

1. shown improvement and;

2. no other infraction has occurred; and

3. the reprimand did not involve a safety violation;

then he/she may request that documentation of the Oral Reprimand be removed from his/her personnel file. Such requests should be made to the Executive Director and approved by the respective Supervisor. Approval shall only be granted if the Employee demonstrates to the Executive Director's satisfaction that the above criteria have been met.

C. Written reprimands will not be removed from an Employee's personnel file unless required by a court of competent jurisdiction.

6.2 Dismissal, Demotion, Suspension

The Executive Director shall have the authority to enforce and administer these Rules by all legal and proper means. Appropriate Disciplinary Action shall include Dismissals, Demotions and Suspensions. Demotions shall generally be utilized only in instances where the Employee has demonstrated an inability to perform job duties and has performance or attendance issues but has not engaged in willful or negligent misconduct under these Rules. Even in the absence of an appeal by the Employee, the Executive Director, by his own authority, may affirm, modify, or reject any Disciplinary Action taken by a Supervisor.

A. Employees in limited-term, temporary, emergency or probationary status may be dismissed, suspended, or demoted without cause and for any reason the Executive Director deems appropriate. Employees must be advised in writing of the reasons for the Dismissal, Demotion, or Suspension.

B. Classified Employees (who have successfully completed their probationary or extended Probationary Period) may be dismissed, demoted, or suspended only for Just Cause.

C. The Dismissal, Demotion or Suspension of a classified Employee shall be accomplished according to the following procedures:

1. To initiate the Suspension, Demotion, or Dismissal, the Supervisor shall serve a Notice of Contemplated Action on the Employee by such means as are reasonably calculated to ensure the Employee has actual notice of the proposed Disciplinary Action. In general, the District shall send the notice by registered mail to the Employee's current address as indicated in the Employee's personnel file. Additional notice may be given in person, by electronic mail or in any other manner that the District deems appropriate.

2. The Predetermination Meeting shall be set for a date within ten (10) working Days of the Mailing of the Notice of Contemplated Action.

Within ten (10) Days from the date of the predetermination meeting, the Supervisor or designee shall Notify the Employee in writing if no Disciplinary Action will be taken or shall serve the Employee with a Disciplinary Action Form and supporting documentation The Disciplinary Action Form shall state what Disciplinary Action is being recommended and when the proposed action will take effect, absent an appeal to the Executive Director.

No Disciplinary Action shall be final until the Executive Director has approved and signed the Disciplinary Action Form.

D. The Dismissal, Demotion or Suspension of an At-Will Employee may be accomplished according to the preceding procedures for Classified Employees but the District reserves the right to abridge or suspend the procedural protections for an At-Will Employees to the maximum extent permitted by law. The District may, in its sole discretion, elect to offer Exempt and At-Will Employees the option to voluntarily resign their Position prior to taking a Disciplinary Action under these Rules.

E. Employees who have been dismissed from employment for disciplinary reasons shall not be eligible for rehire and a note or record to that effect shall be retained in the Employee's personnel file.

6.3 Appeals of Dismissals, Demotions and Suspensions.

A. If an Employee wishes to appeal a Dismissal, Demotion, or Suspension, the Employee shall submit a written Notice of Appeal to the Executive Director within ten (10) Days from receipt of the Disciplinary Action Form. The written Notice of Appeal shall state the specific reason(s) the Employee disagrees with the discipline and any other basis for the appeal.

B. The Executive Director shall review the written Notice of Appeal and respond in writing by preparing a written Notice of Final Decision within ten (10) Days from the date of actual receipt of the Notice of Appeal. The Executive Director's decision may affirm, modify, or reject the Disciplinary Action. The Executive Director may, within this time period, request a meeting with the Employee to discuss the appeal and its resolution.

C. The Executive Director may, when deemed in the best interest of the District, extend the time limit for providing the Employee with the Notice of Final Decision

6.4 Appeal of the Notice of Final Decision.

A. Selection of Hearing Officer.

Only Suspension, Demotions and Termination may be appealed under this section. In order to file a valid appeal under this section, an Employee shall submit a written Notice of Appeal to the Executive Director within) ten (10) calendar Days of receipt of the Executive Director's Notice of Final Decision. The Executive Director shall, within twenty (20) Days from the date of service of the Notice of Appeal, appoint an independent hearing officer to hear the appeal. Appeals not filed within ten (10) Days shall be dismissed for lack of jurisdiction.

1. The hearing officer shall be a licensed New Mexico attorney or a person experienced in personnel administration. The NCRTD shall maintain a schedule with the names of

one or more persons qualified under these rules who is willing and able to fulfill the requirements of hearing officer.

2. Prior to proceeding with the appeal the hearing officer shall provide each party an opportunity to state any objections they have regarding the hearing officer. After considering any objections, the hearing officer in his or her sole discretion shall determine whether he or she can afford a fair and impartial hearing.

3. The hearing officer shall verify to both parties that he/she has no conflicts of interest and can remain fair and impartial prior to proceeding with the appeals hearing.

4. No person shall discuss the merits of the appeal with the designated hearing officer unless both parties are present or their representatives are present. Ex parte contacts and any other actions which could cause bias are prohibited and shall be regulated by the hearing officer to ensure the process remains fair and impartial. Hearings on appeals shall comply with the requirements of fundamental due process and shall at a minimum provide, notice, an opportunity for the parties to be heard, the opportunity for parties to submit witnesses and evidence under oath, and the right to cross-examination.

B. Hearings.

1. The hearing officer will determine the date and time of the hearing.

2. A party may appear at the hearing through a representative, provided such representative has made a written entry of appearance and divulged any potential conflicts of interest prior to the hearing date.

3. The hearing officer may clear the room of witnesses not under examination, if either party so requests. The District is entitled to have the Executive Director or his/her designee, in addition to its representative, in the hearing room during the course of the hearing, even if the person may testify in the hearing.

4. The District shall present its evidence first.

5. Oral evidence shall be taken only under oath or affirmation.

6. Each party shall have the right to:

    a. Make opening and closing statements;

    b. Call and examine witnesses and introduce exhibits; and

    c. Offer rebuttal evidence.

    d. Cross-examine the opposing party's witnesses.

7. The hearing shall be conducted in an orderly and informal manner without strict adherence to the rules of evidence that govern proceedings in the courts of the state of New Mexico. In order to support the hearing officer's decision, there must be a

residuum of legally competent evidence admissible to support a verdict in a court of law.

8. The hearing officer shall admit all evidence, including affidavits, if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing officer shall exclude immaterial, irrelevant, or unduly cumulative testimony.

9. The hearing officer may take administrative notice of those matters in which courts of this state may take judicial notice.

10. The rules of privilege shall be effective to the extent that they are required to be recognized in civil action in the District Courts of the State of New Mexico.

11. The hearing shall be recorded by a sound-recording device under the supervision of the hearing officer.

12. The District carries the burden of proof by a preponderance of the evidence.

13. At least fifteen (15) Days prior to the hearing, the parties must submit to the hearing officer:

    a. a position statement

    b. a witness list

    c. an exhibit list.

14. At least five (5) Days prior to the hearing a party must file any objections to the other party's witnesses or exhibits with the hearing officer. Witnesses who are not disclosed by this deadline or the deadline contained in a pre-hearing order, if any, shall not be permitted to testify except for good cause shown and to prevent manifest injustice.

C. Hearing Officer's Decision

1. The hearing officer's decision shall be issued within twenty (20) Days of the hearing, unless an extension is otherwise agreed to by the parties. The hearing officer's decision shall include findings of fact and conclusions of law. The hearing officer shall provide a copy of the decision to the parties by registered mail.

2. The hearing officer may uphold, modify, or reverse the decision of the Executive Director.

3. In the event that the hearing officer order includes an award of back pay, the Employee shall provide the District with a sworn statement and documentation of any gross earnings and unemployment Compensation since the effective date of the Disciplinary Action. The District shall be entitled to offset earnings and unemployment Compensation received during the period covered by the back pay award against the back pay due. The hearing officer shall retain jurisdiction of the case for the purpose of resolving any disputes regarding back pay.

4. The decision of the hearing officer shall be the final step in the administrative process provided for by these Rules.

RULE 7 - ADMINISTRATIVE DISPUTE RESOLUTION PROCEDURES

7.1 Purpose

The purpose of this procedure is to secure, in an atmosphere of courtesy and cooperation, an equitable solution to personnel matters, employment practices, or job-related conflicts that may arise. This procedure may not be used for appealing Disciplinary Actions. Disciplinary Actions must be appealed according to the provisions in preceding Section of this Rule.

7.2 Jurisdiction.

All classified Employees and limited term, non-probationary Employees within the District are afforded the right to utilize the Administrative Dispute Resolution Procedures.

When two or more disputes are filed which require investigations of a common question of law or fact arising out of the same circumstances, the Executive Director may consolidate them into one dispute.

Disputes must be current, concerning matters having taken place within ten (10) Days of the violation.

Case files and record keeping of hearings are the Executive Director's or designee's responsibility.

7.3 Dispute Defined.

A dispute may be considered as an expressed dissatisfaction, whereby an Employee believes that he/she has been unfairly treated in violation of the District's Personnel Rules and Regulations regarding personnel matters. These Rules and Regulations are expressly limited to personnel disputes and do not cover non-personnel matters or matters that are covered by a separate legal regime such as worker's Compensation.

7.4 Form of Complaint.

The Complaint shall at a minimum contain the following. However, the lack of complete information at the time of filing shall not constitute grounds for refusal to accept a complaint.

A. The date on which the alleged violation of the Rule took place.

B. The specific Rule allegedly violated and about which the complaint is made.
C. Facts and other pertinent information to support the allegations.

D. The remedial action sought by the complainant.

7.5 Complainant's Rights.

At any stage during the presentation of the complaint, including the counseling stage, the complainant shall be free from restraint, interference, coercion, discrimination, or reprisal and shall

have the right to be accompanied, represented, and advised by a representative of his/her own choosing.

7.6 Review Procedures.

A. Step 1: Immediate Supervisor Level

Employee submits, in writing, his or her complaint in regard to a violation of the Rules within ten (10) Days of the violation, to his or her Supervisor. The Supervisor shall respond within ten (10) Days of receipt of the written complaint by speaking with the Employee. If the complaint is not resolved at this meeting, the immediate Supervisor shall provide to the Employee a written response. If a satisfactory solution is not reached within ten (10) Days after speaking to the immediate Supervisor, the grievance may be submitted to Step 2 by filing the complaint with the next higher Supervisor within five (5) Days after receipt of the written response by the immediate Supervisor. If the immediate Supervisor is the highest level of Supervisor for the Employee, the grievance shall be moved directly to Step 3.

B. Step 2: Second Level

If the complaint is not satisfactorily resolved at Step 1, the complaint may be submitted to any intermediate Supervisor who is above the direct Supervisor but below the Executive Director. The intermediate Supervisor shall respond in writing within ten (10) Days of receipt of the written complaint and may, within this time period, request a meeting with the Employee to discuss the complaint and its settlement. If the complaint is not satisfactorily resolved at this level, the complaint may be submitted to Step 3 by filing with the Executive Director within five (5) Days after receipt of the written response by the intermediate Supervisor.

C. Step 3: Executive Director

If the complaint is not satisfactorily resolved at Step 2, the complaint may be submitted to the Executive Director. The Executive Director shall respond in writing within ten (10) Days of receipt of the complaint and may, within this time period, request a meeting with the Employee to discuss the complaint and its resolution. The Executive Director's decision shall be final.

RULE 8 – RECORDS AND REPORTS

8.1 District Official Personnel Records.

The official personnel records for each Employee of the District shall be maintained in the Human Resources Office. Such records shall include a copy of the Employee's application, the original copy of each performance appraisal reports, and any other PAF or other pertinent information. Such records shall be made available for inspection by the Employee and his/her Supervisors, as well as any person employed by the District and authorized by the Executive Director to do so.

8.2 Employee Personnel Files.

Employees shall be provided a copy of any material placed in their official personnel record and may present a written response to any material in the record to be attached to the original material.

8.3 Confidentiality of Records.

A. The District shall maintain personnel records confidential to the extent permitted by law. Personnel records which are subject to inspection under the New Mexico Inspection of Public Records Act or other state and federal laws, or by order of a court of competent jurisdiction, or a validly issued subpoena, will not be kept confidential... Any personnel records may be inspected with the written permission of the Employee or by authorized representatives, agents and Employees of the district without the Employee's permission.

B. For the purpose of preserving the confidentiality of personnel records, the following records may be inspected by the public only with the written permission of the Employee. These records include records pertaining to:

1. physical or mental examinations and medical treatment of persons confined to any institution, use of sick leave, FMLA leave;
2. letters of reference concerning employment, licensing, or permits;
3. letters or memoranda which are matters of opinion;
4. documents concerning infractions and Disciplinary Actions;
5. performance appraisals;
6. college transcripts; and
7. military discharge if other than honorable.

RULE 9 – EMPLOYEE BENEFITS PROGRAMS

9.1 Employees are eligible to receive the following benefits subject to the District and any third party rules and regulations governing said benefits:

A. Public Employees Retirement Association of New Mexico (PERA);

B. New Mexico Retiree Health Care Authority;

C. Social Security;

D. 457 Deferred Compensation Plan;

E. Insurance benefits;

F. Additional fringe benefits identified in these Rules and administrative policies.

G. Benefits conferred as a part of any District approved programs for Employee recognition, Employee wellness, and Employee morale and team-building.

9.2 Part-time Employees

Shall be eligible for participation in the above mentioned benefits, on a pro-rated basis, subject to rules and regulations governing said benefits. Pro-ration is based on the ratio of hired hours to the number of hours in the normally scheduled work period

9.3 Temporary Employees

Temporary Employees Shall not be eligible for participation in the benefits identified herein. When a temporary Employee is converted from temporary to regular or limited-term, without a break in continuous service, the following shall apply:

A. Eligibility for participation in Retirement benefits shall be based on the date the Employee was converted to probationary, or limited-term status.

B. The service date, as defined in these rules and regulations, shall be used in computing annual leave and sick leave;

C. Eligibility for participation in any pay increase process shall be based on the date the Employee was converted to probationary, or limited-term status;

D. If the Employee is converted to a Classified or limited-term position, the date of this conversion shall be used in computing the Probationary Period.

9.4 Limited-term Employees

Shall be eligible for participation in benefits:

RULE 10 – WORKER'S COMPENSATION BENEFITS

10.1 Reporting on the Job Injuries

Employees are insured under the provisions of the New Mexico Worker's Compensation Act, NMSA 1978 §§ 52-1-1 et seq., (the "Act") for job-related injuries or occupational illnesses and both the employer and Employees must fulfill their respective legal duties under the Act including reporting on-the –job injuries.

A. Employees are required to report all on the job accidents, regardless of how minor. The Supervisor shall ensure that the Employee immediately receives all required medical treatment.

B. An NCRTD accident form is available from the Human Resources Office and shall be completed by the Employee. Employer's First Report of Injury or Illness packet shall be completed by the Supervisor within 24 hours of the incident. In addition, the Employee must submit a HIPAA compliance Authorization for Disclosure of Protected Health Information form within twenty-four (24) hours of the incident, whenever possible.

10.2 Medical Procedures

A. Emergencies.

In the event of traumatic on the job injury/illness situations or when a medical emergency exists, the Employee may go to the nearest emergency room or urgent care center. All follow up medical treatment must be coordinated by a physician designated by the District. If the District has not designated a physician the Employee may see their personal physician.

B. Non- emergencies.

An Employee with a non-emergency, work related injury/illness shall see a physician designated by the District or their personal physician. That physician will provide medical treatment and/or initiate all referrals for advanced or specialized care, depending upon the nature of the medical problem.

C. Post-Accident Alcohol and Controlled Substance Testing (CDL and non CDL).

These incidents are not covered under the Worker's Compensation policy and instead shall be covered by the District's Drug and Alcohol policy.

D. Compensation.

The decision to approve or deny a claim for benefits is made by the District's insurer of record, not by the District itself. If an Employee's claim is approved for benefits, any and all payments relating to the injury/illness will be made directly by the District's insurer.

E. Waiting Period.

There is a seven (7) Day waiting period before an Employee becomes eligible to receive payment for lost wages. Employees shall use sick leave; vacation leave or accumulated compensatory time for any time missed from work due to the work related injury/illness so that pay will continue from the District. If available leave has been exhausted, the employer will grant Leave without Pay (LWOP) for missed work time and all applicable provisions of the personnel rules will apply including those related to the payment of insurance premiums.

F. FMLA leave.

Any applicable FMLA leave for serious health conditions as defined under FMLA, will run concurrently with Employee's worker's Compensation absence. Because worker's Compensation absences are not unpaid leave, the provisions for substitution of paid leave is not applicable. An Employee whose Worker's Compensation leave exceeds the FMLA leave period and who has exhausted all paid leave will be placed on LWOP pursuant to Section 4.13 of the personnel rules and all applicable provisions will apply including those related to the payment of insurance premiums.

RULE 11 – RETURN TO WORK (FROM ILLNESS/INJURY) PROGRAM

11.1 Generally, the District's Return to Work (RTW) Program attempts to provide temporary modified work duty to Employees who have suffered an injury or illness and as a result are not immediately able to return to their regularly assigned duties without modification to their work duties. The goal of the RTW Program is for the District to retain and accommodate injured/ill Employees and to work with the Employee's physician to transition the Employee back to full, unrestricted and unmodified work duties. The availability of modified work duties under the RTW Program is within the sole discretion of the District unless otherwise required by law. Notwithstanding any rule or provision herein to the contrary, the District shall at all times comply with requirements of the Americans with Disabilities Act and shall provide reasonable accommodations and such other measures as are required by law in the case of disabled persons.

11.2 Employees who experience an on the job injury or illness which results in their temporary inability to return to the full range of duties of their regular Position Classification, shall accept transitional

work assignments if offered by the District.

11.3 Employees who experience an off the job injury or illness which results in their inability to return to the full range of duties of their regular Position Classification may be eligible for transitional work assignments if offered by the District and if consistent with the provisions of New Mexico and District Workers' Compensation laws, rules and regulations.

11.4 Transitional work assignments will consist of work which is within the restrictions outlined by the Employee's health care provider. The Employee's health care provider must provide a specific listing of limitations and the anticipated recuperation time prior to the Employee's returning to work without limitations. Such assignments may include, but are not necessarily limited to:

A. Part-time or fulltime, with a temporary waiver of certain regular duties (reasonable accommodation), in an Employee's regular Position Classification; or

B. Part-time or full time in another capacity.

11.5 The District may require an Employee to submit to an examination by a physician chosen by the District at the District expense, if the duration of the temporary assignment appears to be excessive, if the restrictions or limitations cannot be adequately interpreted or clarified with the Employee's physician, or if the District has reason to believe the Employee's release for duty is inconsistent with job requirements.

11.6 Employees assigned to transitional work assignments will receive their regular hourly rate of pay for their regular job Classification for the number of hours worked in the transitional work assignment.

11.7 Assignment to transitional work depends upon the availability of such work and of work suitable to the Employee's medical restrictions. A transitional work assignment may be terminated at any time by the District.

11.8 Priority will be given to workers with job related injuries or illnesses and Employees with non-job related injuries or illnesses who seek similar accommodations may be subject to personnel actions, modified work assignments or work schedules, or required use of leave in order to provide transitional work assignment to an Employee injured on the job.

11.9 In no event will a modified duty assignment last for more than ninety (90) Days in a 12-month rolling calendar year. This applies to both work-related and non-work related conditions. The 90 Days may be continuous or intermittent. If the Employee is not able to return to full duty following 90 Days of continuous or intermittent modified duty assignment, an evaluation will be conducted by the Human Resources Office to identify available options, which may include consideration of medical retirement or separation. The District reserves the right, for good cause, to discontinue a modified-duty assignment at any time. Good cause shall include, but not be limited to, unavailability of temporary work, operational requirements of the District which make temporary assignment impracticable, or the Employee's inability to satisfactorily perform the duties of the modified duty assignment.

11.10 Employees refusing to work transitional work assignments may not be eligible for workers Compensation benefits or paid leave benefits. Transitional work assignment for Employees with workers' Compensation claims or receiving workers' Compensation benefits will be made consistent with the provisions of New Mexico Worker's Compensation Act, NMSA 1978 §§ 52-1-

1 et seq., (the "Act") along with State and District rules. Employees refusing transitional work assignments maybe subject to corrective action. If the Employee's health care provider will not authorize transitional work, the District may take appropriate action as allowed by law.

11.11 Employees unable to return to work due to injury or illness maybe separated from District employment as provided for under these Rules.

DEFINITIONS

All terms capitalized for other than grammatical purposes shall have the following meanings:

Administrative Dispute: A written statement of dissatisfaction about the administration of the Personnel Rules and Regulations of the District as it affects an individual Employee or group of Employees.

Administrative Leave: Leave that is authorized by the Executive Director with or without pay for an Employee during the time a fact finding investigation or other administrative proceeding is pending completion or in other circumstances deemed in the best interest of the District.

At–Will Employment: The employment relationship of Employees hired with a written understanding and agreement at the time of employment that they may be terminated at any time with or without cause or notice.

Board: means the Board of Directors of the NCRTD.

Bona fide occupational qualification: Means a qualification reasonably related to the satisfactory performance of the duties of a job, and for which where there is factual basis to believe that a person lacking the qualification would be unable to perform satisfactorily the duties of the job with safety and efficiency.

Candidate: Means any person who has qualified under these Rules for employment in a specific Classification and who may or may not have an outstanding job offer from the District but who has not yet become and Employee.

Classification: Means one or more positions so similar in the essential character of their duties and responsibilities that the same pay Range, title, and qualification requirements can be applied.

Classification Title: A name assigned to a Position that indicates a particular level of rank and specific duties and responsibilities. This term is sometimes used interchangeably with the term Job Title.

Classification and Compensation Plan: The District's official plan that classifies positions and sets Compensation rates.

Compensation: means the pay or wages and all other forms of valuable consideration earned by, or paid to, any Employee in remuneration for the services in any position.

Day or Days: any reference to day or days means business day or days and shall include normal dates of operation and excludes weekends and holiday unless these rules expressly provide otherwise.

Demotion. A Demotion is an action changing an Employee's Position to another Position with a lower pay Range and a reduction in pay. Demotions only may be made to a Position in a Classification for which the Employee is qualified. Demotions shall generally be used only where an Employee has performance or attendance issues and has not engaged in willful or negligent misconduct constituting a violation of these Rules.

Disabilities: A physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

District: The North Central Regional Transit District.

Disciplinary Action: There are several types of Disciplinary Action that may include, whether individually or in combination, an official reprimand (verbal or written), Suspension, reduction in pay, Demotion, or Termination.

Disciplinary Action Form: means a form or forms approved for use by the Executive Director for the purposes of documenting the Districts decisions regarding Disciplinary Action.

Dismissal: A dismissal is separation of an Employee from his/her employment with or without cause.

Division or Department: A major functional subdivision of the District organizational structure that is accountable to the Executive Director. Divisions and Departments shall mean such subdivisions as may, from time to time, be shown on any organizational chart promulgated by the Executive Director.

Domestic Partner: means any person living in the same domicile as the Employee or prospective Employee.

Domestic Violence or Domestic Abuse: means a pattern of coercive tactics carried out by an abuser against an Intimate Partner or family member (the victim) with the goal of establishing and maintaining power and control over the victim. These coercive tactics can be physical, psychological, sexual, economic and/or emotional.

Drug and Alcohol: As defined in the District's adopted Drug and Alcohol policy.

Employee: A person occupying a Position in the District service. Such persons include, but are not limited to, the following types of Employees:

1. **Classified Employee**: means a budgeted, full or part-time position, duties of which do not terminate at any stated time. Classified Employees also means an Employee who is eligible for overtime Compensation and other protections and provisions of the FLSA.

2. **Exempt Employee:** means a budgeted, full or part-time position, exempt from the classified service under FSLA.

3. **Temporary Employee**: means the employment of a person hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twelve months of employment unless otherwise approved by of the Executive Director.

4. **Limited Term Employee:** means the employment of a person for a designated period of time, usually in excess of one (1) year, for a limited and specified time period, e.g., one year or longer subject to funding for the project or program.

5. **Emergency Employee:** employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare, or severely curtail the normal operations of the District.

Essential Functions: The fundamental job duties of any particular employment position. The term "essential function" does not include the marginal functions of the position. The job function may be essential for any or several reasons including, but not limited to, the following:

- the reason the positions exists is to perform that function;

- there are a limited number of Employees available among whom the performance of that job function can be distributed; or

- it is necessary to ensure that life or safety is not jeopardized.

Executive Director: means the chief executive officer of the North Central Regional Transit District ("District") or a person designated in writing to act on behalf of the Executive Director, who is responsible for the administration and supervision of all District activities including the appointment, hiring, and retention of all Employees, management of any Divisions or Departments which may be created, and ultimate Supervisory responsibility for all Employees of District.

Extended Family: includes an Employee's spouse or Domestic Partner, child, father, mother, brother, sister, grandparent, grandchild, current mother-in-law, current father-in-law, current sister-in-law, current brother-in-law, current son-in-law, and current daughter-in-law.

Fair Labor Standards Act (FLSA): A federal law enacted by the United States Congress in 1938, which sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for Employees who are covered by the Act.

Family Medical Leave Act (FMLA): A federal law which generally entitles qualified Employees to up to 12 weeks of unpaid leave per year for the birth, adoption or placement for foster care of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition.

Furlough: means the temporary placement of an Employee in a reduced work hour schedule, which can either be partial or full time, due to lack of work or funds.

Immediate Family Member: means an Employee's spouse, Domestic Partner, child or parent.

Hire Date: The date that a newly hired Employee (temporary or probationary) begins work for the District.

Intimate Partner: includes people who are legally married to each other, people who were once legally married to each other, people who have had a child together, people who live together or who have lives together, and people who have or had a dating or sexual relationship, including same sex couples.

Just Cause: includes, but is not limited to:

1. Violation of or failure to comply with the Federal or State Constitution, Statutes, or District Policies, District Rules and Regulations and District Resolutions;

2. Indictment by a grand jury;

3. Conviction of or entrance of a plea of guilty or nolo contendere to a felony or other crime which has or may have a material adverse effect on the Employee's ability to carry out their duties or upon the reputation of the District;

4. Careless, negligent, or improper use of District property, equipment, or funds;

5. Insubordination, which shall consist of violation of any official regulation or order, or failure to obey, comply or accept any proper directions made and given by a Supervisor in the course of employment, or any verbal ridicule of a Supervisor by an Employee during the course of employment;

6. Inefficiency, incompetence or negligence in the performance of assigned job duties or failure to perform job requirements or job performance which continues to be unsatisfactory;

7. Disorderly conduct or threats or abuse of others;

8. Chronic tardiness or absenteeism, or the improper or unauthorized use of leave privileges or benefits;

9. Stealing from the District or from other Employees;

10. Taking Unauthorized Leave or job abandonment.

11. Failure to obtain and maintain a current license or certificate required as a condition of employment;

12. Intentional falsification or mishandling of District records;

13. Fraud in securing employment with the District or attempting to secure a Promotion or a Position by political influence;

14. Unauthorized or illegal use, sale, or possession of alcohol or illegal drugs, or being under the influence of such substances while on duty;

15. Unauthorized discussion or release of confidential information documents or records;

16. Harassment and/or discriminatory behavior towards any person because of their membership in a Suspect Class; or

17. Action which reflects poorly upon the integrity of the District.

Notice of Appeal: means any written document prepared by an Employee or his/her agents that unambiguously states that the Employee disputes a specific Disciplinary Action and seeks further review of said Disciplinary Action. Failure to use District forms or proper terminology shall not deprive an Employee of his/her opportunity to appeal a Disciplinary Action so long as the writing clearly identifies that challenged action, is dated and signed by the Employee or his/her agent, and is received by the District within the time allowed for appeals. Although no specific form of service is required, proof that an appeal was timely filed is the responsibility of the Employee.

Notice of Contemplated Action: means a written notice to an Employee which: describes the conduct, action, or omissions which form the basis for contemplated Disciplinary Action; gives a general explanation of the evidence the Supervisor has regarding the alleged violation of these Rules; specifies what disciplinary measures or corrective action may be taken; and states the date, time and place of a Predetermination Meeting, and that the Employee may waive the right to the meeting by Notifying the Supervisor in writing prior to the start of the meeting.

Notice of Final Decision: means a document prepared by or on behalf of the Executive Director that:

- Documents the date, time and place of the predetermination meeting;
- Identifies specific Employee misconduct;
- Specifies the Disciplinary Action, if any, to be taken;
- Specifies the effective date of any dismissal, Demotion, or Suspension which must be at least seven (7) Days after the date of the Notice of Final Decision (during this Seven-Day period the Executive Director may place the Employee on paid administrative leave if deemed in the best interest of the District);
- Informs the Employee that the Disciplinary Action may be appealed to an independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) Days of the effective date of the Dismissal, Demotion, or Suspension; and
- Is delivered personally to the Employee by the employer or by registered mail to the Employee's last address on record.

Notify or Notification: means providing a person with information by any means reasonably calculated to achieve actual notice. In general, the District shall provide Notification in person where possible, by registered mail, where mailing is necessary or desirable, by e-mail where the recipient has an active and functional e-mail account and by phone where exigent circumstances warrant.

Oral Reprimand: Means a Disciplinary Action taken by a Supervisor to caution an Employee regarding misconduct constituting a violation of these Rules. Although the reprimand is cautionary and may not incur further action by the Supervisor, it may be used as the basis for subsequent action in the context of progressive discipline. Oral Reprimands are given to the Employee verbally but documented with the Human Resources office in writing.

Personnel Action Form: Means any form the District elects to utilize to document any employment or administrative action by the District under these Rules or the administrative regulations of the District.

Predetermination Meeting: Means a meeting with and Employee and one or more Supervisors to discuss alleged facts that may constitute a violation of these Rules and at which and Employee is given a chance to make any statements, assertions or contentions that may influence the District's decision regarding a proposed Disciplinary Action. At the predetermination meeting the Employee shall have the grounds and the proposed action explained to him/her and shall have the right to respond. The purpose of the response is an opportunity for the Employee to present his or her side of the story. It is an initial check against mistaken decisions. The District will use the information gathered from the meeting to make a determination of whether there are reasonable grounds to believe that the charges against the Employee are true and support the proposed action. The Employee shall have the right to representation and the meeting may be recorded by either party.

Probationary Period: A working trial or orientation period ranging from six to twelve months during which an Employee demonstrates, by actual performance, the Employee's ability to perform the duties of the Position for which the Employee has been hired.

Position: The official rank within a given Classification and held by an Employee with a descriptive title.

Promotion: A change in the employment status of an Employee to a Position in a higher Classification with a higher rate of pay and increased responsibility.

Protected Class: For purposes of these Rules a Protected Class shall mean a person who is protected legal interests due to belonging to any of the following classes:

- Race
- Color
- National origin
- Religion
- Sex (including pregnancy, childbirth, and related medical conditions)
- Disability
- Age (40 and older)
- Citizenship status
- Genetic information
- Marital status
- Sexual orientation (includes perceived sexual orientation
- Gender identity
- Serious medical condition
- Use of Domestic Abuse leave

Range: The limits set for the minimum and maximum rates of pay within a given Classification.

Rate of Pay or Pay: The amount of money allocated for payment to an Employee whether hourly or by way of a salary. Pay may be indicated as hourly even for salaried Employees solely for the convenience of District administration notwithstanding the fact that the pay is on a salary basis.

Reclassification: The process of reassigning a Position to a different Classification for non-disciplinary reasons.

Reduction in Force or RIF: Means the separation, lay off, involuntary Demotion, reassignment, or reduction of work hours or number of Employees in the District or in a Division due to lack of work or funds.

Retirement: Official Retirement from a budgeted Position and District service that is available when the requirements of the Employee's Retirement system are met.

Sexual Harassment: The Equal Employment Opportunity Commission (EEOC) defines Sexual Harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

3. The conduct is unwelcome, unwanted, or offensive and has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Stalking: A pattern of conduct over a period of time, however short, which evidences a continuity of purpose and includes physical presence, telephone calls, e-mails and any other type or correspondence sent by any means.

Supervisor: An Employee hired and/or appointed by the Executive Director assigned to direct and evaluate the work of other Employees within a designated work unit.

Suspension: A Suspension is the temporary removal of an Employee from his/her work assignment without pay. Employees covered by the Fair Labor Standards Act (FLSA) shall only be suspended without pay as permitted by the FLSA. *See e.g.* 29 C.F.R. 602 (full-work week Suspensions for any disciplinary reason); 29 C.F.R. §541.602(b)(4) (less than full-work week Suspensions for infractions of major safety rules); 29 C.F.R. §541.602(b)(5) (less than full-work week Suspensions for violations of workplace conduct rules such as Sexual Harassment, workplace violence, drug or alcohol violations etc., but not for performance or attendance issues).

Termination: The separation of an Employee from District service. Termination may be by discharge, death, lay-off, resignation, Retirement, work completion, contracting out District services, or lack of work or funds. The Termination date is synonymous with the separation date and is the last day of an Employee's work in District service. No vacation or sick leave is accrued or used from that date forward.

Transfer: A reassignment of an Employee from one Position to another Position in the same Classification or another Classification having the same pay Range, involving the performance of similar duties, and requiring substantially the same basic qualifications.

Unauthorized Leave of Absence: Failure of an Employee to Notify and receive permission from their immediate Supervisor in advance of absence or failure of an Employee to report for work at the beginning of their next regularly-scheduled work period. An Unauthorized Leave of absence includes all or any portion of a work day for which notice and approval have not been provided. An Unauthorized Leave of absence may be grounds for Disciplinary Action up to an including Termination. Unauthorized Leave is not compensated.

Weapons: Objects classified as Weapons include, but are not limited to:

- any firearm, loaded or unloaded, assembled or disassembled, including pellet, "BB" and stun guns, unless the possession of such firearm is licensed, authorized or permitted pursuant to state and/or federal law and expressly permitted by the District;

- knives longer than 2.36 inches (and similar instruments) other than those present in the workplace for approved work purposes or for the specific purpose of food preparation and service;

- brass knuckles, metal knuckles, and similar Weapons;

- bows, cross-bows and arrows;
- explosives and explosive devices, including fireworks, ammunition, and/or incendiary devices;
- throwing stars, nun-chucks, clubs, saps, and any other item commonly used as, or primarily intended for use as a Weapon;
- self-defense chemical sprays (mace, pepper spray) in canisters or containers larger than two ounces; and
- any object that has been modified to serve as, or has been employed as, a dangerous Weapon.

Workday: An Employee's scheduled daily hours of employment as established by the Executive Director or an authorized Supervisor.

Written Reprimand: means a Disciplinary Action taken by a Supervisor to caution an Employee regarding misconduct constituting a violation of these Rules. Although the reprimand is cautionary and may not incur further action by the Supervisor, it may be used as the basis for subsequent action in the context of progressive discipline. Written Reprimands are given to the Employee in writing and documented with the Human Resources office in writing.